

June 28, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File Nos.
L02UPD01, L03FCC01 and L03P0003
Proposed Ordinance Nos: **2005-0017, 2005-0018 and 2005-0019**

REDMOND RIDGE EAST

Urban Planned Development (UPD), Fully Contained Community (FCC),
Preliminary Plat Application and Appeals of EIS Adequacy

Location: Immediately east of the Redmond Ridge UPD/FCC and south of the
Trilogy at Redmond Ridge UPD. The property is bounded on the north
by the PSE right-of-way, on the east by the approximately 244th/248th
Avenue Northeast (if extended), and the south by approximately
Northeast 90th Street (if extended).

Applicant: The Quadrant Corporation
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SUMMARY OF RECOMMENDATIONS ON PERMIT APPLICATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to revised conditions
Examiner's Recommendation:	Deny applications

EXAMINER PROCEEDINGS:

Hearing Opened:	February 22, 2005
Hearing Closed:	April 11, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Developer:	The Quadrant Corporation Attn: Bonnie Geers 1110 – 112th Avenue Northeast Bellevue, WA 98004 Phone: (425) 836-1054
Engineer:	Hugh G. Goldsmith & Assoc., Inc. 1215 – 114th Avenue Southeast Bellevue, WA 98004 Phone: (425) 462-1080
Location:	Lying immediately east of the Redmond Ridge UPD/FCC and south of the Trilogy at Redmond Ridge UPD. The subject property is bounded on the north by the PSE right-of-way, on the east by the approximately 244 th /248 th Avenue Northeast (if extended), and the south by approximately Northeast 90 th Street (if extended).
STR:	Portions of the following quarter sections: SE ¼ of Sec. 34, Twp. 26, Range 6 NE ¼ of Sec. 34, Twp. 26, Range 6 NW ¼ of Sec. 34, Twp. 26, Range 6 SW ¼ of Sec. 34, Twp. 26, Range 6 NE ¼ of Sec. 3, Twp. 25, Range 6 NW ¼ of Sec. 2, Twp. 25, Range 6
Zoning:	UR – P – SO (Urban Reserve zone – Property Specific Development or P-Suffix Standards – Special District Overlay)
Acreage:	337.3 acres
Number of Dwelling Units:	800 (proposed maximum) 780 (proposed minimum)
Number of Lots:	721 lots and 2 multi-family residential tracts

Density:	<u>Overall Density</u> (Base Density) – 2.37 dwelling units/acre <u>Net Density Detaches Single-family (plus 20 duplex lots)</u> – 4.38 to 4.58 dwelling units/acre <u>Multi-family Tract MF-1</u> – 13 to 17 dwelling units/acre <u>Multi-family Tract MF-2</u> – 9 to 13 dwelling units/acre
Lot Size:	Ranges from approx. 3,000 to 11,500 sq. ft.
Proposed Use:	Detached single-family residences Duplex residences Other multi-family residences (type not yet specified) Youth soccer complex Neighborhood parks and trails
Sewage Disposal:	City of Redmond
Water Supply:	City of Redmond
Fire District:	King County Fire Protection District No. 34
School District:	Lake Washington School District No. 414
Complete Application Date:	March 31, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner dated February 22, 2005, are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the Redmond Ridge East applications, subject to the conditions stated in Exhibit 227 and modified by Exhibits 234 and 235. The staff report contains a summary description of the main elements of the proposal and its overall impacts.

A. APPLICATION AND PROCEDURAL HISTORY

3. Complete applications for the Redmond Ridge East fully contained community permit, urban planned development permit and subdivision preliminary approval were received on March 31, 2003. Redmond Ridge East proposes up to 800 units of residential development on a 337 acre site that lies south of Novelty Hill Road directly east of the previously approved Redmond Ridge UPD/FCC and south of the Trilogy UPD. If Redmond Ridge East is approved as submitted, the three UPDs collectively would be authorized to construct a maximum of 4,750 dwelling units on approximately 2,434 acres.
4. The original Redmond Ridge East application package included a preliminary plat application for the so-called Panhandle area lying east of the proposed UPD. The Panhandle lies in the Rural area and is proposed for a maximum of 21 lots on 120 acres. Subsequent to the original application, review of the Panhandle plat was segregated from Redmond Ridge East and will require a separate preliminary plat hearing.
5. King County DDES issued a determination of significance for the Redmond Ridge East and Panhandle plat applications on March 14, 2003, and designated Redmond Ridge East and the Panhandle plat as "two separate independent actions" to be "considered jointly in the EIS review

process.” A draft environmental impact statement was issued for the conjoined Redmond Ridge East and Panhandle applications on April 8, 2004, and a final environmental impact statement was issued on November 15, 2004, for Redmond Ridge East alone. Timely appeals of the adequacy of the Redmond Ridge East FEIS were filed by the City of Redmond, Friends of the Law (FOTL), the Union Hill Water Association and the Northeast Sammamish Sewer and Water District. The Northeast Sammamish and Union Hill Water Association appeals challenged the adequacy of the FEIS analysis of project impacts to ground water but were withdrawn prior to the receipt of hearing testimony on this subject. The Redmond FEIS adequacy appeal focused on the project’s traffic impacts on the Avondale Road corridor between Novelty Hill and Union Hill Roads. The FOTL FEIS adequacy appeal statement alleged a wide variety of FEIS deficiencies, but its hearing testimony focused principally on traffic issues. FOTL also challenged the basis for the traffic concurrency certificates issued by the County for Redmond Ridge East development.

6. An application for UPD or FCC approval is not considered vested at the time of its submission but rather vests at the time of actual permit approval. Accordingly the Redmond Ridge East UPD and FCC applications are subject to recently adopted policies contained in the 2004 King County Comprehensive Plan as well as the new Critical Areas and Clearing and Grading Ordinances and Surface Water Design Manual. The basic standards for approval of UPD and FCC permits are contained in KCC Chapter 21A.39. The UPD requirements provide for a site development master plan, project phasing, flexibility in the modification of development standards and compliance with affordable housing policies. The FCC provisions stated at KCC 21A.39.200 impose additional requirements for transit-oriented site planning and traffic demand management programs, a mix of uses to include creation of employment opportunities for project area residents, and the containment of urban growth impacts within the UPD/FCC area.

The gap between the County’s UPD and FCC requirements is narrowed by development condition BC-P21, which applies to the Redmond Ridge East properties independent of their UPD or FCC status. This P-suffix condition requires development pursuant to a master drainage plan, promotion of the use of alternative modes of transportation, a trail system and buffers, and sufficient area for “retail/commercial and business park uses to serve the needs and provide employment for future residents and employees.” Comprehensive Plan policy CP-102 for the Bear Creek area provides that the Novelty Hill UPD properties “will revert to rural if UPD development is denied or not pursued” and specifies the future imposition of RA-5 zoning. This reversion policy is not implemented by the current zoning and would require a future zoning amendment for its fulfillment.

7. Although a component of the Novelty Hill Master Plan Development Area created in 1989 within the Bear Creek Community Plan, the Redmond Ridge East property is functionally isolated from its two companion UPD developments. While directly adjacent to Redmond Ridge (originally approved as “Northridge”) along its western boundary, Redmond Ridge East is in fact separated from Redmond Ridge by a major north/south wetland system that extends from its northern to its southern boundaries. Except for the Village retail center currently under development adjacent to its northern boundary, Redmond Ridge East is also separated from the main part of the Trilogy UPD (formerly “Blakely Ridge”) by the intervening Novelty Hill Road arterial. And on the south and east, Redmond Ridge East is bordered by Rural area properties regarding which it is legally precluded from having significant road, utility or other development interaction.

As a consequence, Redmond Ridge East is in effect a smaller island within the boundaries of the larger Novelty Hill UPD island. The consequences of this isolation have led DDES staff to explore the creation of potential access routes west from Redmond Ridge East into Redmond Ridge and indeed to suggest that FCC standards cannot be met unless such a connection is made. The issues attendant to the proposed staff condition that the so-called C-2 road alternative be made a requirement of Redmond Ridge East approval will be detailed later in this report.

8. Redmond Ridge East does not propose to develop its own retail or business park components, but rather will rely upon commercial facilities being provided by its companion UPDs. What is unique about the Redmond Ridge East proposal is its provision for an approximately 40-acre soccer field complex to be located on the east side of the property adjacent to the Panhandle plat. An agreement negotiated in 2003 with the Lake Washington Youth Soccer Association, the Cascade Conservancy and the King County Executive capped total Redmond Ridge East and Panhandle development at 800 residential units while giving the Cascade Conservancy the option of assuming ownership of the project's wetland areas and allowing LWYSA to construct a regional youth soccer complex. The primary spine road for Redmond Ridge East is proposed to be Eastridge Drive, a north/south collector arterial which will commence at Novelty Hill Road at the north and terminate at its south end at the soccer field complex. Redmond Ridge East is proposed to be developed in four phases over four construction seasons, basically progressing from north to south with the Eastridge Drive collector arterial being constructed in phase two. The underlying Urban Reserve zoning imposes no minimum or maximum density limits, and the staff conditions propose that single-family development be governed by R-6 standards and that multi-family development conform to R-18 standards.

B. PUBLIC SERVICES AND FACILITIES

9. The DDES staff report contains a detailed and generally thorough description of the facilities requirements for Redmond Ridge East, the new services and facilities proposed to be constructed, and the impacts of Redmond Ridge East on public services and facilities. The Trilogy UPD located north of Redmond Ridge East is crossed by the City of Seattle Tolt River pipeline, and Redmond Ridge East will also receive its water supply from this source. The transmission facilities installed at the time of Trilogy construction are sized to accommodate the increased demand from Redmond Ridge East. Overall, the level of water use from Trilogy has been lower than initially projected, so cumulative water supply impacts do not appear to be an issue. An agreement between the newly formed Cascade Water Alliance and the City of Seattle for water purchase has been completed, and the City of Redmond as water purveyor to Redmond Ridge East has committed to supply water to the project under the CWA agreement. In like manner, the prior UPD designs accommodated future provision of sewer service to Redmond Ridge East based on an assumption of 1000 residential units. The current proposal for 800 units will be well within the design capacity of the system after a third sewage pump is installed.
10. A new fire station is currently under construction within Redmond Ridge, and upon completion it will provide fire and emergency services to Redmond Ridge East. The relatively short response times projected for service from the new station to Redmond Ridge East may be further reduced if the new C-2 connector is constructed, which also would provide an emergency route not subject to commuter-hour congestion on Novelty Hill Road.

11. Regarding the impact of Redmond Ridge East on school facilities within the Lake Washington School District, using the School District's 2003 student generation factors the DEIS concluded that Redmond Ridge East would generate 281 primary school and 426 total students at project buildout. With a new elementary school being constructed within Redmond Ridge to accommodate 483 students, the DEIS concluded "no new facilities beyond those already anticipated and planned for would be needed to accommodate future student populations from cumulative growth from Redmond Ridge and Redmond Ridge East." This conclusion elicited strong disagreement from the Lake Washington School District, which cited more recent data showing a higher student generation rate and asserted that schools within the UPD area are currently overcapacity and would remain so even with the new Redmond Ridge elementary school, that capacity determinations should be made on the basis of permanent facilities only with portables excluded, and that redrawing internal service lines in order to bus Redmond Ridge students to distant locales was contrary to District policy.
12. The updated discussion of the school impact issue within the FEIS concluded with a suggestion that a new elementary school site could be provided within Redmond Ridge East for District purchase, which suggestion has now been adopted as part of the Applicant's proposal. A new ten-acre school site would be carved out of the proposed soccer field tract in the southeast corner of the project property, and the recreation complex would be expanded to encompass another approximately eight acres east of the BPA power line easement. This reconfiguration of the soccer complex would also likely reduce the number of soccer fields to eight.
13. Based on student generation data from comparable residential developments in the area, the FEIS states that Redmond Ridge East would generate between 198 and nearly 500 elementary students, with Redmond Ridge East and Redmond Ridge combined generating between 522 and more than 1185 elementary students. While these estimates fall within the framework of the data presented, the range is too great to allow for meaningful analytical conclusions. Looking at the data for the various existing residential developments cited, a reasonable analysis could be performed based on the single-family generation rates for the Vintage community and the multi-family elementary student generation rate for Klahanie. Klahanie is a UPD generally comparable to Redmond Ridge East, and its student generation rate is supported by eight years of data. The FEIS describes the Vintage community as "roughly comparable to RRE in lot size, price and mix of housing types." Based on the Vintage and Klahanie data, Redmond Ridge East would be expected to generate at buildout approximately 323 elementary age students, while Redmond Ridge at buildout would produce another 533 students for a combined total of 856. These figures suggest that the new Redmond Ridge elementary school will likely fall about 50 students short of being able to accommodate all Redmond Ridge students, but with a new elementary school at Redmond Ridge East of the same size the two new schools together would have capacity for 110 students more than the total predicted for the UPDs combined.
14. In view of the foregoing, the issue of determining school concurrency for Redmond Ridge East becomes a question of timing. If the new Redmond Ridge East elementary school can be provided by the 2010 project buildout date, permanent school capacity can be reasonably assured. As the FEIS notes, and as emphasized by the public testimony received at the February 28, 2005, community hearing, the two existing elementary schools that now receive the UPD overflow are currently overcrowded as a result of the new level of residential UPD development. Moreover, this constitutes an urban impact on Rural area facilities. The new Redmond Ridge

elementary school may be adequate to meet combined UPD demand through 2009 or 2010, but after that time the second school will be required in order to avoid imposing UPD impacts on surrounding Rural neighborhoods.

15. Redmond Ridge East proposes to develop 7.8 acres of neighborhood parks dispersed throughout the development area and, as well, approximately four miles of new trails that link up to the existing Redmond Ridge and regional trail networks. In addition, two of the soccer fields within the proposed recreation complex will be dedicated to Redmond Ridge East use. Some area residents have argued that the proposed regional soccer complex should not be permitted at Redmond Ridge East because it will serve residents outside the UPD area. While the specific impacts of the proposed complex need to be adequately identified, analyzed and mitigated, the argument that the use itself is inappropriate would only be compelling if the soccer complex were a regional facility of a specifically urban nature. As stated at KCC 21A.39.200.B(7), a fundamental purpose of the FCC permit is to ensure that “urban growth will not occur in adjacent non-urban areas,” which concept has been elaborated in Comprehensive Plan policy U-178 to provide that “the term fully contained is not intended to prohibit all interaction between a FCC and adjacent lands...” More critically, the recreational complex is a permitted use in the RA zone in exactly the same manner as it is allowed in the Urban Residential zones, so there are no regulatory grounds for viewing it as uniquely urban in nature. On that basis, assuming that the specific impacts of the facility are mitigated, there is no zoning conflict between a regional soccer facility within Redmond Ridge East and surrounding Rural uses.

C. HOUSING AFFORDABILITY AND DIVERSITY

16. KCC 21A.39.060 requires that 30 percent of the residential units in a UPD be offered at affordable pricing based on median household income levels pursuant to a designated formula. Quadrant proposes to meet this requirement in a manner similar to that employed previously at Redmond Ridge, with currently-proposed modifications to permit conditions largely limited to stricter controls on the resale of affordable units. As proposed, the project’s multi-family and attached-unit dwellings will primarily be used to meet this requirement.
17. The DDES staff conditions endeavor to go beyond the affordability provisions to mandate that an additional housing diversity requirement be met as well. Neither the UPD or FCC ordinance standards deal with housing diversity specifically, but P-suffix condition BC-P21 at section 3A requires a proposed UPD to provide “a range of housing types including lot sizes, attached and detached single-family and multi-family housing units and densities.” The staff report also cites an array of Comprehensive Plan policies that speak to the need to provide “a variety of housing types,” “a range of housing opportunities,” “diversity in housing types and affordability,” and “a mix of housing types and densities” which should include “housing opportunities for households with special needs, including the elderly and persons with disabilities.” Staff contends that these policies operate to flesh out the “range of housing types” mandated by the P-suffix condition. Staff’s position appears to be additionally informed by perceptions that existing development at Redmond Ridge displays a high degree of demographic uniformity and that market forces and lot design variety have not been sufficient to overcome this tendency.
18. Section 2.3.2 of the proposed staff permit conditions attempts to impose housing diversity onto Redmond Ridge East development by requiring 20 percent of the detached single-family units to

be constructed from a menu of six defined housing types, including small cottage units, cottage units, condominium detached single-family residences, size-limited residences, one-story residences and three-story residences. This staff-proposed condition inspired a spirited debate between DDES and Quadrant in which the Applicant offered to accept some portions of the menu but argued for greater flexibility, contending (among other things) that the general language in both the ordinance and the Comprehensive Plan policies does not support this type of rigid regulatory control.

19. Although the number of policies referring to the need to create housing diversity is indeed impressive, Quadrant is nonetheless correct in pointing out that there is not a great deal of regulatory specificity to these references. About the most that can be said with any certainty is that the policies do seem to clearly differentiate housing diversity from housing affordability, but whether specific regulatory standards can reasonably be derived from these general statements is problematic. After listening to the Applicant and DDES staff argue these issues the Examiner suggested that they try once again to reach a compromise, and happily this latest effort succeeded. Exhibit 235 contains a revision of proposed permit section 2.3.2, upon which DDES staff and Quadrant have agreed. It differs from the original staff-proposed condition in that it tweaks upward the maximum floor areas allowed for cottage units and size-limited residences, adds a couple more unit types to the menu and increases the flexibility permitted within the unit type mix.

D. LAND USE RELATIONSHIPS

20. Starting with the 1989 Bear Creek Community Plan, the currently designated UPD/FCC area (then denominated the Novelty Hill Master Plan Development) has always been regarded as a single land use entity. In 1996, in order to comply with Growth Management Act requirements, the County Council adopted ordinances authorizing a fully contained community approval process. The Hearing Examiner's June 28, 1996, report and recommendation for Northridge contains, starting at page 43, a discussion which concluded that, while separate UPD and FCC permits might be issued for discrete parcels within the Novelty Hill Master Plan Development area, it would be illogical to allow the permit process to undermine the essential unity envisioned by the 1989 community plan. Current regulations and policies are consistent with this unified framework. KCC 21A.39.200.D provides that "in applying the FCC criteria...to an FCC permit, the county shall consider the uses and other characteristics of any existing FCC permit on an adjoining site within the FCC area." Further, the Comprehensive Plan policies for the Bear Creek area beginning at policy CP-101 continue to refer to the Novelty Hill subarea as a single urban planned development and fully contained community. Finally, Quadrant's FCC permit application specifically relies on retail and business park facilities within the adjoining UPDs to meet its FCC requirements, thus acknowledging the centrality of the single UPD/FCC development concept.
21. The status of existing development on the adjacent, previously approved Redmond Ridge and Trilogy UPD sites is that Redmond Ridge is close to having built out all of its 1500 dwelling units and has constructed a 60,000 square foot retail center. To date Redmond Ridge has experienced no construction within the business park area, although two building permit applications have been submitted and are currently under review at DDES. Residential development at Trilogy is proceeding at a slower pace with approximately 500 units occupied

and another 190 multi-family units under building permit review. Portions of the 125,000 square foot Trilogy retail center lying directly north of Redmond Ridge East are currently under construction. The Trilogy golf course has been installed and is operational.

22. KCC 21A.39.200.B.4 requires an FCC to provide a “mix of uses...to offer jobs, housing, and services to the residents of the new FCC.” Section 4 of P-suffix condition BC-P21 additionally provides that the “Novelty Hill Master Plan Developments/Urban Plan Developments shall provide sufficient area to accommodate retail/commercial and business park uses to serve the needs and provide employment for future residents and employees.” Thus Redmond Ridge East, whether viewed as an FCC or a UPD, is required to provide retail and business park uses. As noted, Redmond Ridge East does not propose to have either its own business park or its own retail center but rather to rely on those being provided at Redmond Ridge and Trilogy. With respect to retail services, Redmond Ridge East’s reliance on the Trilogy retail development to its north makes obvious sense. The Trilogy retail area is directly contiguous to the northern boundary of Redmond Ridge East, and its size is more than adequate to serve the new UPD’s requirements.
23. The 1989 Bear Creek Community Plan envisioned for the Novelty Hill MPD area a business park consisting of 200 acres of development. This amount was scaled down to 120 acres during the Northridge review in order to reduce overall project traffic impacts to a manageable level consistent with the existing capacity of Novelty Hill Road. The Northridge DEIS offered the following explanation of the methodology used to predict the number of employees that would be generated by Northridge commercial development:

“Based on ITE estimates, retail employment averages two employees per 1,000 gross square feet of use and business park employment averages three employees for every 1,000 gross square feet of use.” (Exhibit 143a, page 2-94)

Using these ratios, the Northridge FEIS projected that the UPD’s retail and business park developments together would “provide employment opportunities for approximately 3,750 workers.” (Exhibit 144, page 1-11) Subtracting out the retail employment element, this leaves approximately 3,500 business park workers expected to be generated.

24. During the Redmond Ridge East hearing the question of the number of business park employees to be generated by Redmond Ridge was revisited. The new analysis boosts the number of anticipated business park employees by about 1,200 from approximately 3,500 to 4,743. According to Exhibit 205, this is based on ITE land use code 750 for office parks, which justifies a ratio of 1 employee per 250 square feet, or about 4 employees per 1,000 square feet instead of the 3 used within the Northridge EIS analysis. Two things appear to be occurring here. First, the Northridge EIS assumed that about 10 percent of the business park space would in fact be retail in nature and assigned to this portion of the business park a lower employee generation rate. Second, there has been an unexplained shift of land use categories from ITE land use code 770 (business park) to code 750 (office park). Since at this point no one really knows what (if anything) is going to be built at the Redmond Ridge business park, the entire employment generation range of 3,500 to 4,700 can be viewed as reasonable. Even at the lower end of the range, at full buildout of the UPDs 3,500 business park jobs would be created for about 4,500 units of housing. Since KCC 21A.39.200.D.4 allows that “no particular percentage formula for

the mix of uses is required,” there is no firm regulatory basis for concluding that this ratio of employment opportunities to housing would be deficient. And this would especially be true in view of the fact that approximately one-half of the total UPD housing stock will be for age 55 or older households.

25. The more vexing question is whether new housing should be approved within Redmond Ridge East in the absence of any actual business park development within Redmond Ridge. While no particular percentage formula for a use mix is required by ordinance, and the Northridge decision declined to impose project phasing based on minimum business park development levels, it is a further leap still to conclude that even more housing should be approved now in the absence of any business park development at all. Without some meaningful level of business park development, the Novelty Hill UPDs will become nothing more than a bedroom community interspersed with empty future development tracts.
26. Even though no specific level of business park development was presupposed as a condition precedent to full buildout of Redmond Ridge, it is not accurate to say that the expectation at the time of the Northridge hearing was that all residential construction would occur before any business park occupancy was realized. The Northridge FEIS projected that “approximately 26 acres of the business park...would be developed during Division 1.” (Exhibit 144, page 1-10) More critically, much of the Northridge discussion of urban impact containment within the UPD area focused on the synergy of combining residential and employment development. The Northridge DEIS contains the following statement:

“Many potential land use impacts associated with intensive urban development would also be internalized; for example, provision of everyday goods and services and a significant number of jobs within the UPDs would reduce pressures for spin-off commercial development in other portions of the planning area.” (Exhibit 143a, page 2-87)

Similar statements are contained elsewhere within the Northridge DEIS. Analyzing compliance with Bear Creek Community Plan policies, Northridge DEIS section 2.5.2.3 contains the following discussion:

“The Novelty Hill UPDs are intended to supply a portion of the planning area’s share of job opportunities and to balance housing growth with employment. Retail and business park development criteria contained in the BCCP require the Northridge UPD to include a neighborhood-scale commercial center designed to meet the everyday shopping needs of residents and business park development to help provide a balance of jobs and households...

“The proposed Northridge UPD includes development of a retail village center and a business park. Land devoted to commercial retail and business park uses would provide a range of employment opportunities to both Northridge and area residents, as well as provide opportunities to live and work within one community.” (Exhibit 143a, pages 2-93 and 2-94)

The same conclusion is repeated at Northridge DEIS page 2-96:

“Development of retail, office, business park and community facilities within both UPDs would provide a diverse employment base, opportunities to work and live within the same community, and a local balance of jobs and housing.”

27. Both Quadrant and DDES staff have been reluctant to discuss the broader parameters of impact containment issues, preferring to limit themselves to such tangible localized concerns as perimeter buffers and screening. When the Hearing Examiner attempted at the hearing to elicit comments on the question of whether further housing approval should be conferred based on nonexistent business park facilities, Quadrant’s attorney expressed indignation that the topic should even be raised.
28. The DDES staff discussion of containment issues occurs mainly in the context of the need to provide a road connection from Redmond Ridge East directly to Redmond Ridge where most of the services that support urban residential development at RRE will be located. The following comments are taken from page 66 of the DDES staff report and its discussion for the need for the C-2 road connection:

“County staff views the RRE road design to be, in effect, one large cul-de-sac without a local connection to the adjacent urban development of Redmond Ridge....

“Redmond Ridge, Trilogy at Redmond Ridge, and Redmond Ridge East were intended by the County to function together as a *Fully Contained Community*. ...County staff anticipates that Redmond Ridge and RRE residents will be regularly traveling between the two developments to reach the 10 acre County park in Redmond Ridge, the LWYSA soccer complex in RRE, the elementary school in Redmond Ridge (and possibly RRE if a second school site is required), the YMCA in Redmond Ridge, and for social and carpooling activities.

“Without a local road connection between Redmond Ridge and Redmond Ridge East, there will clearly be “...impacts on neighborhood circulation...[...] *increases on the use of arterials for local vehicular trips...*,” and thus a conflict with Comprehensive Plan Policy T-308....

“The provision of a neighborhood road connection between Redmond Ridge and RRE will make it easier for a Metro bus to travel between the two developments, as well as the existing Trilogy/Redmond Ridge commuter shuttle, vanpools and carpools. A neighborhood road connection will also provide a direct route for RRE residents to reach the two Park ‘n Ride lots in Redmond Ridge. Without this connection, RRE residents are less likely to use the lots.”

Similar comments appear at staff report page 46 with regard to the need for a direct road access between Redmond Ridge East and employment opportunities at the Redmond Ridge business park:

“While the Redmond Ridge business park appears to be a sufficient size, County staff finds the location of the Redmond Ridge office park problematic, relative to meeting the employment needs of RRE residents, and reaching a conclusion that RRE is a “fully contained community”. Without a neighborhood road connection between RRE and Redmond Ridge, RRE residents who are employed in the Redmond Ridge business park will not be able to reach their place of employment without traveling *outside* of the Novelty Hill UPDs/FCCs, via the Novelty Hill Road arterial. This will obviously create unnecessary traffic congestion on Novelty Hill Road, by RRE residents using this arterial for local vehicular trips to and from work.... Thus, a neighborhood road connection, such as road alternative C-2 as described in the EIS, should be made a part of the development of RRE, in order for RRE to be considered a *fully contained community*.”

29. During the period between the completion of the Redmond Ridge East DEIS and the public hearing, the assumptions underlying the committed transportation facilities supporting the project have undergone a radical transformation. The DEIS analysis assumed the existence of the Novelty Hill CIP as a constructed facility available for the Redmond Ridge East horizon year, while the FEIS traffic analysis was revised to eliminate the Novelty Hill Road CIP as a mitigation supporting RRE development. Second, while the possibility of constructing an internal connecting roadway between Redmond Ridge East and Redmond Ridge was contemplated within the DEIS, it was not analyzed with any specificity until the FEIS was issued. Further, since the issuance of the FEIS the construction of the C-2 road connector has evolved from a possibility worthy of study to a bedrock requirement underlying the DDES staff analysis. As documented above, DDES staff has expressed grave reservations about the ability of Redmond Ridge East to contain its urban impacts, meet connectivity goals and adequately mitigate traffic impacts unless the C-2 connector is required as a condition of development.
30. Much of the discussion of both the Novelty Hill CIP and the C-2 connector has taken place within the context of the localized traffic impact analysis along Novelty Hill Road itself, with the staff also providing analysis of the C-2 alternative in terms of the need for the overall Novelty Hill FCC area to operate as an integrated whole. Important as these considerations are, there is also a need to look at the elimination of the CIP and the addition of the C-2 connector as they may affect urban impact containment with respect to the surrounding rural community. Elimination of the Novelty Hill widening CIP project from the transportation network and the addition of the C-2 internal connector may also divert traffic away from Novelty Hill Road and redistribute it to Rural area roads south and west of the UPD area.
31. Returning to the 1989 Bear Creek Community Plan and tracing the development of its policies through the Northridge hearing process, the primary strategy for containing urban traffic impacts from the Novelty Hill UPD area was to focus UPD traffic onto the Novelty Hill Road arterial corridor and to allow it to feed from there into Avondale Road, the City of Redmond and SR-520. This containment strategy is implicit in Bear Creek Community Plan policies 42 through 48 (see Exhibit 143a, Appendix A). The strategy of focusing UPD project traffic on the Novelty Hill Road corridor is confirmed within the Northridge DEIS: “The assignment of traffic, based on the above trip distribution assumptions, indicates that most project traffic would use Novelty

Hill Road, and would disperse at intersections of arterial or collector roads such as 208th Avenue Northeast and Avondale Road.” (Exhibit 143a, page 2-106)

The Transpo traffic study within the Northridge DEIS is equally explicit: “Primary access to the site will be provided by Novelty Hill Road....” (Exhibit 143d, Appendix L, page 7) This same statement appears within the Northridge FEIS at page 1-12. The need for Novelty Hill Road to accommodate UPD impacts is asserted at Northridge FEIS page 3-33: “With the improvements described below, Novelty Hill Road would accommodate cumulative traffic volumes from the Northridge and Blakely Ridge UPDs at final build-out, as well as other forecast traffic volumes.” Moreover, the 1350 vehicle per hour trigger for major UPD-financed road improvements that was imposed under the Blakely Ridge decision and carried over as a condition of Northridge was specifically designed to ensure the integrity of the traffic assumptions adopted for Novelty Hill Road. If, after mitigation, traffic volumes on Novelty Hill Road in the PM peak hour east of 208th Avenue Northeast again reach the 1350 threshold and further capacity-creating improvements are not available, UPD construction is to be halted.

32. Although nowhere so articulated, the transportation strategy formulated by DDES staff and accepted by Quadrant for Redmond Ridge East abandons the principle that UPD traffic should be primarily focused on the Novelty Hill corridor and that the timing of UPD construction should be dependent upon the ability of Novelty Hill Road to carry out its assigned function. Approval of Redmond Ridge East without assurance of the additional capacity represented by the Novelty Hill CIP project and with the C-2 connector proposed by staff can only be justified if one assumes that it is acceptable for traffic previously assigned to Novelty Hill Road to be redistributed to other Rural area arterials and roads. While this may make perfect sense from the narrow standpoint of mitigating level-of-service impacts along the Novelty Hill Road UPD frontage, it represents a fundamental shift from the planning approach underlying the Northridge UPD approval, which posited Novelty Hill Road as the primary access corridor for the Novelty Hill UPD area and identified the arterial’s capacity as a fundamental control over UPD growth. As explicitly stated in the Northridge DEIS, the “limited capacity of Novelty Hill Road was the primary reason for downsizing the UPDs from the size anticipated in the BCCP” and “widening of Novelty Hill Road to 5 lanes would be required to accommodate full build-out of the panhandle.” (Exhibit 143a, page 2-87)
33. The precise assessment of the potential impact of Redmond Ridge East on the rural character of nearby properties poses difficulties because such impacts do not easily lend themselves to numerical quantification. The Redmond Ridge East EIS documents contain no discussion of rural character impacts beyond a description of zoning regulatory controls on utility development, retail demand, perimeter buffering and other such localized and tangible considerations. If one assumes, however, that urban levels of traffic on rural roads tend to degrade rural character, some general sense of the effect can be implied from EIS data describing patterns of traffic growth and distribution. For example, if one compares the 1993 average daily traffic (ADT) counts stated in the Northridge DEIS for the arterial system serving the UPDs with the 2002 ADT counts in the Redmond Ridge East DEIS and the 2010 figures projected for Redmond Ridge East without the Novelty Hill CIP in the Redmond Ridge East FEIS, one can derive some sense of how the process is unfolding. The 1993 figures represent the pre-UPD development condition. The 2002 figures include a significant element of Redmond Ridge residential growth plus increases in background traffic from the Duvall and Monroe areas, while

the 2010 figures predict the future traffic growth pattern after completion of Redmond Ridge East. What one sees in the ADT totals is a significant rate of traffic growth between 1993 and 2002 on both Novelty Hill Road just east of Avondale and Union Hill Road west of 208th Avenue Northeast, but very little growth at those locations projected between 2002 and 2010. These comparisons suggest that the two main east/west arterial corridors serving Novelty Hill have reached their capacity limit and future traffic will be diverted to other rural routes.

34. These other rural arterials are, predictably, the 236th Avenue Northeast corridor, which connects the Redmond Ridge southern back door to SR-202, Northeast 133rd Street, which is the northern Trilogy back door route connecting west to Avondale Road, and 208th Avenue Northeast, which provides a north/south connector between Novelty Hill Road and Union Hill Road and then continues further south to SR-202. But while these secondary arterial corridors have been projected for UPD utilization since the time of the Blakely Ridge approval, their relative importance to the transportation network has increased beyond the levels originally predicted. If one compares the 2005 ADT predictions contained in the Northridge DEIS with similar predictions for 2010 within the Redmond Ridge FEIS for buildout without the Novelty Hill CIP, one sees that the ADT projections for Novelty Hill Road in 2010 are 21 percent lower than the Northridge DEIS prediction for 2005, and for Union Hill Road the 2010 projection is 32 percent lower. In contrast, the 2010 prediction for Northeast 133rd Street is 46 percent higher than the 2005 estimate, the 208th Avenue Northeast projection is 32 percent higher, and the 236th Avenue Northeast ADT total is 18 percent higher than 2005. While this comparison is a rough one at best, the pattern is clear. With facilities improvements to Novelty Hill and Union Hill Roads lagging behind original projections and the Avondale Road corridor continuing to experience a high level of congestion, traffic is moving away from the two principal east/west arterial corridors and fanning out through the secondary arterial system.
35. Although some increased use of the secondary rural arterial network serving the Novelty Hill UPD area has always been an accepted consequence of UPD development, it should also be remembered that these roads were originally constructed for low intensity rural use and retain a high level of rural residential development. The 236th/238th Avenue Northeast corridor, which is projected to experience a 550% ADT increase between 1993 and 2010 just north of its intersection with SR 202, will suffer the most extreme impacts from UPD development. This fact was acknowledged within the Northridge UPD hearing and summarized as follows within the Hearing Examiner's 1996 report and recommendation at page 9:

“The most drastically impacted section of roadway south of Northridge will be the short section of 238th Avenue Northeast which lies between Northeast 80th Street and Union Hill Road. This is a 20-foot wide section of rural roadway constructed without substantial shoulders which currently experiences an average daily trip total of about 800 and a PM peak hour count of approximately 80 vehicles. For the year 2005 after buildout of both UPDs and completion of the north/south arterial system through Northridge, the ADT on this section of roadway is predicted to rise to over 10,000 vehicles with a PM/peak of approximately 1,100 vehicles. While the road is planned to be widened to 22 feet of pavement with 8 foot shoulders and will operate at an acceptable level of service, the magnitude of change which will be experienced by the five or six residential properties closest to the roadway will be profound and may have a devastating effect on their currently quiet rural life style. In an effort to provide some

mitigation for these impacts, staff has revised its proposed traffic conditions to require screening, landscaping and/or fencing for lots with existing driveway access to 238th Avenue Northeast and any residences within 60 feet of the roadway. Even with mitigation, however, lifestyle impacts to these residential properties will be severe.”

In short, while increased traffic on these rural arterials may be an inevitable consequence of UPD development, authorization of such impacts should not undercut a recognition of the burdens imposed on adjacent rural properties. And by extension, further increases in traffic loads on these secondary roads should be recognized as having even more profound impacts to rural character.

36. If the Redmond Ridge East EIS documents ignored rural character impacts due to the impossibility of quantifying them, the February 28, 2005, evening hearing held in the community offered substantial anecdotal evidence of how these issues play out in the lives of area residents. There was repeated testimony as to how morning peak hour congestion on Novelty Hill and Union Hill Roads prevents area residents from making left turns out of driveways and side streets and encourages traffic to cut through residential streets such as Redmond Road and 116th Avenue Northeast in order to avoid congested areas. A related observation was how congestion creates dangerous conditions as left-turning traffic is forced to make risky intrusions into the dominant traffic flow to take advantage of small opportunities to execute the maneuver. There was also testimony as to how increased speed and congestion on rural road sections without sidewalks or adequate shoulders creates hazards for school children and other pedestrians. While not lending itself to precise quantification, the consensus of neighborhood testimony was that living on or adjacent to rural roads with urban levels of traffic congestion undermines the rural quality of life.

E. SURFACE WATER, GROUNDWATER AND CRITICAL AREAS IMPACTS

37. The most substantial elements of the Redmond Ridge East documentary studies are those that deal with surface water, groundwater and critical areas issues. Within the UPD area for Novelty Hill these matters have been subject to ongoing evaluation on behalf of Quadrant by largely the same group of technical consultants since the early 90's, and the accumulation of data and the analyses derived therefrom are impressive. Innumerable survey stations have been established, base line data has been checked and rechecked, over 500 test pits have been dug and over 100 test wells drilled. From the standpoint of natural resource issues more is probably known about the Novelty Hill UPD area than any other development location in the county. With the notable exception of the last-minute review cobbled together for the staff-proposed C-2 road alternative, the information is complete and the analyses clearly articulated within both the EIS documents and the DDES staff report.
38. The Redmond Ridge East master drainage plan is governed by four overriding goals. One is to maintain the existing hydrologic balance supporting the extensive on-site system of wetlands, with particular emphasis on those that have a bog component. The second goal is to avoid increasing surface water and base flow discharges to the steep and unstable Snoqualmie Valley walls lying east of the site. The third goal is to provide the water quality treatment necessary to maintain the chemical balance within the sensitive bog wetlands, and the final goal is to provide

replacement groundwater recharge sufficient to offset recharge losses resulting from creation of the impervious surfaces attendant to urban development.

39. The RRE site lies within three drainage basins, the largest of which is the eastern basin that drains toward the Snoqualmie River. Most of the western portion of the site flows northwest into the Upper Bear Creek system, which features at its headwaters on Redmond Ridge a bog wetland complex. The smallest of the three sub-basins is that for Evans Creek sub-basin lying at the site's southwest corner, which also drains offsite to the south into a wetland with a bog component.
40. Maintenance of bog hydrology and water quality is sought to be achieved by relying primarily on clean runoff from roof drains, supported where necessary by surface water treated to the County's sphagnum bog water quality treatment menu, as well as by diversion of flows (where feasible) away from the bogs toward the Snoqualmie River basin. North of the site the Trilogy UPD drainage system releases flows over the Snoqualmie valley walls through a tightline system which has unused capacity. The plan is for Redmond Ridge East runoff collected within the Snoqualmie sub-basin to be piped north to the Trilogy discharge pipe. The on-site R/D pond in the Redmond Ridge East northeast corner also will be constructed with sufficient reserve capacity to accommodate the overflow condition when the Trilogy pipe capacity is exceeded.

Snoqualmie basin flows draining to the southeast corner of the project at the proposed regional soccer field complex will be infiltrated. The till cap at this location thins out sufficiently to allow infiltration to occur, and the flow pattern within the sub-surface Vashon advance aquifer is toward the north. Infiltration at this location will not increase base flows to the highly erosive slopes lying east of the plat. The recharge resulting from the infiltration facility will compensate for recharge lost elsewhere in the plat, especially as such may affect the Dawnbreaker well north of the site.

41. At least one and possibly two drainage ponds on the western half of the site will discharge to wetlands containing bog components. Proposed facility ECE-6C no. 1 will be situated near the northern end of the Evans Creek on-site sub-basin at a location just south of the drainage divide with the Bear Creek basin. It will split flows both to the north and south into wetland systems containing bogs. These flows will receive treatment pursuant to the Surface Water Design Manual's sphagnum bog water quality treatment menu and will be processed through a facility that contains a combined detention and wet pond which releases to a large sand filter. It is expected that the flow-splitting device will require adaptive management based on wetland fluctuation levels. But even with treatment the downstream bog wetlands will experience some water quality impacts from road surface and lawn and garden chemical discharges.
42. Treatment to the stringent requirements of the sphagnum bog water quality treatment menu does not guarantee mitigation adverse of impacts to bogs. The Raedeke Associates wetland assessment contained in the DEIS offers the following observation:

“Several wetlands, including BBC 53 on site and BBC 52 and EC 6 off site, with relatively low pH, dissolved oxygen, varying depths of peat or muck soils, and predominance of plant species characteristic of peat bog habitats, are particularly susceptible to changes in water chemistry from the proposed development. Discharge of

untreated or even treated storm water runoff from developed areas within their tributary basins could cause increases in pH and nutrient loadings or concentrations. Such changes could cause shifts in plant species abundance or composition to favor more widely adaptive species (such as spirea) at the expense of species that may have narrower water chemistry tolerances (and such sphagnum and Labrador tea).” (Exhibit 4d, Appendix F, page 39)

43. A similar level of uncertainty regarding the effectiveness of mitigation strategies is expressed within the 2005 Surface Water Design Manual at section 1.2.8.1C:

“Sphagnum bog wetlands support unique vegetation communities that are extremely sensitive to changes in alkalinity and nutrients from surface water inputs. While treatment facility options emphasize reduction of mineral elements (alkalinity) and nutrients in the runoff, little is known about their ability to reduce alkalinity or to actually protect sphagnum-based plant communities. In addition, the effect of frequent water level changes on the sphagnum plant community is also unknown but could be damaging. Hence, it is best to avoid discharge to sphagnum bog wetlands whenever possible.”

44. The Quadrant proposal has also been reviewed for compliance with the newly adopted Critical Areas Ordinance (Ordinance 15051) and, as proposed, will meet the new buffering requirements and create a minimal level of sensitive areas intrusion. The proposed wetland crossing at the south end of the project site at Northeast 97th Place is calculated to require .08 acre of wetland fill to and .02 acre of overstory removal from the 13.6 acre BBC 54/EE wetland. Further north, Northeast 104th Place proposes to cross the BBC 52 tributary stream above an arch culvert that will avoid the necessity of filling within the stream channel. Because the Redmond Ridge East site lies at the upper end of three intersecting sub-basins, stream flows are minimal and downstream barriers to fish migration frequent. In addition, the water chemistry that supports wetland bog vegetative growth is generally toxic to anadromous fish. Thus while Chinook salmon are found downstream in all three basins, no evidence of fish use on the Redmond Ridge East site has been encountered.

45. The Redmond Ridge East site is covered by second and third growth native forests that are about 70 years old. The clearing of major portions of the site for road, utility and residential development will eliminate significant portions of the currently existing forested habitat. No endangered or protected species are known to be resident on the site, but evidence of pileated woodpecker foraging is present. As noted within the Raedeke wetland assessment, the RRE site lies directly east of a designated wildlife corridor that traverses the Redmond Ridge wetland complex and extends north into the Triology site and the City of Redmond watershed. Thus, the Redmond Ridge East sensitive areas tracts possess a synergistic relationship to the off-site wildlife corridor:

“The overall habitat corridors formed on the RRE and Panhandle sites by the larger wetland systems and their buffers would be contiguous with adjoining native open space areas via connections generally several hundred feet wide. In particular, the sensitive area tracts encompassing wetland complexes on RRE would connect to the large area of native forest in sensitive area tracts on the

existing Redmond Ridge UPD to the west. This native open space area on the existing UPD corresponds to a Wildlife Habitat Network as depicted on maps from the . . .Comprehensive Plan. Habitat connections encompassing wetlands and buffers to offsite areas north and south from the eastern portions of RRE where it borders the panhandle range from 500 feet to over 1,200 feet wide.” (Exhibit 4d, Appendix F, page 51)

F. IMPACTS OF THE C-2 ROAD ALTERNATIVE

46. The proposition that neighborhood connectivity between the Redmond Ridge and the new RRE UPD would be enhanced by an internal road connection between the two sites that circumvented the congestion on Novelty Hill Road was first reviewed within the Redmond Ridge East DEIS. At that time discussion focused on two alternatives denominated C and C-1. Road alternative C lies about a quarter mile south of Novelty Hill Road and would connect Northeast 109th Place within Redmond Ridge East to Northeast Alder Crest Drive within Redmond Ridge at a location approximately in the middle of the Redmond Ridge business park. It would cross wetland BBC 52 within Redmond Ridge at its narrow midpoint and provide direct access to the existing King County park, the newly constructed fire station at the corner of Northeast Alder Crest Drive and Redmond Ridge Drive Northeast, and the YMCA further to the west. It would also provide convenient access to the park and ride lot one block north at the intersection of Northeast Market Place Drive and Redmond Ridge Drive Northeast and, as well, to the southern entry to the Redmond Ridge retail area. Road alternative C-1 is located about one-half mile further south and would connect to Cedar Park Crescent Northeast within Redmond Ridge at its Redmond Ridge Drive Northeast intersection. This would occur at the south end of the business park adjacent to the new Lake Washington School District elementary school site and the contiguous park and ride lot.
47. Road alternative C-2 follows the C-1 alignment through Redmond Ridge but instead of connecting directly east to the RRE road system it would curve northward to join Northeast 104th Place near its intersection with Muirwood Drive and then continue northeast to Eastridge Drive. The C-2 collector alignment follows an old logging road but crosses five Redmond Ridge wetlands or their buffers. It does not, however, directly cross wetland BBC 52 but rather passes through a narrow upstream tributary wetland. The sensitive areas impacts of the C-2 alternative are essentially identical to those for C-1. The basic difference between the two alternatives lies in how they connect to the Redmond Ridge East road system after passing through the sensitive areas. Implementation of the C-2 alternative would require the redesign of the Redmond Ridge East site plan for the residential neighborhood through which the road would pass, but this alignment would provide a more convenient and free-flowing connection between the two UPDs. As described within the Redmond Ridge East FEIS, in addition to direct vehicular access “Alternative C-2 could provide a direct, lighted, neighborhood road connection between RRE and Redmond Ridge that could readily be used by pedestrians and bicyclists traveling to and from work at the Redmond Ridge business center, to and from the Redmond Ridge and Trilogy shopping centers, and by children traveling to school and play at the Redmond Ridge NRRE schools and recreation facilities.” (Exhibit 5a, Appendix. A, page 47)
48. As envisioned by DDES staff, road alternative C-2 would cross a dedicated natural resource protection area (NRPA) within Redmond Ridge at a location near the divide between the Bear

Creek and Evans Creek drainage basins. Runoff from the north side of the road would flow north towards wetland BBC 52, a class 1 wetland that has a bog component near its southern end. Runoff from the south side of the road would generally flow south toward off-site wetland E 6, which is also categorized class 1 due to a bog element. Appendix I to the Redmond Ridge East DEIS undertook an analysis of the sensitive areas impacts from the C-1 alternative based on its requiring 0.4 acres of direct wetland fill and 5.6 acres of buffer fill. Due to the extreme sensitivity of the bog wetlands lying both south and north of the C-1 location, the DEIS concluded that this proposed route posed a “very high potential for additional impacts” with regard to construction sedimentation, receiving water chemistry and potential increase in storm contaminants. By comparison the DEIS described the construction and water chemistry impacts from alternative C as “high” rather than “very high”, and as “moderate” instead of “very high” with respect to storm contaminants.

49. The discussion within Appendix I to the DEIS assumes detention and water quality treatment of storm water from the various road alternatives and the release of flows at the level 3 flow control rate. Even with these mitigations, however, the DEIS reviewer concluded that the C-1 alternative would be the most impactful of the options under consideration. With respect to water quality some of the concerns expressed in the DEIS were as follows:

“The roadway would require the crossing of wetlands and would be constructed as a road fill. This could interrupt natural drainage and interflow within the wetlands. Additionally, the roadway would eliminate several acres of native forest vegetation, which could increase potential storm water runoff to wetlands.... In order to match pre- and post-discharge volumes to wetland BBC 52, some out-of-basin diversion to either or both wetlands G/AA/VS 15 and EC 61 would need to occur....

“Alternative C-1 would add approximately 2.4 acres of impervious surface . . . and, would therefore result in more stormwater contaminants at the Alternative C-1 location than with the Proposed Actions alone. Because the roadway would be significantly longer and includes significantly more impervious surface than any of the other access alternatives, Alternative C-1 would generate greater storm water contaminant load. As with Alternative C, increased loadings would occur irrespective of the water quality treatment. The length and impervious surface area of Alternative C-1 would also mean longer duration of construction and greater area exposed during construction. Because of the increased level of construction for the added roadway, risk of introducing eroded fine sediments and concrete leachate from curbing during construction would be higher.

“...Earthwork volume and wetland and buffer clearing areas for Alternative C-1 would be higher than under the other access alternatives and this alternative would have a greater risk of sedimentation during construction. In addition, the erosion and concrete run-off risk during construction, and subsequent discharge from the completed roadway, would be to the buffers of bog Wetland BBC 52, wetland G/AA/VS 15, and wetland EC 61. Sphagnum Bog Protection water quality treatment measures would need to be provided for drainage release to the BBC 52 drainage basin.” (Exhibit no. 4d, Appendix I, pages 41 and 42)

50. Appendix A to the Redmond Ridge East FEIS contains an updated analysis of road alternatives C and C-1 and a new analysis of the C-2 alternative, which as noted duplicates the C-1 wetland crossings but imposes a more convenient eastern upland approach. The most interesting aspect of the FEIS discussion is that DDES staff removed the water quality discussion from the hands of the EIS consultant in order to provide a more favorable review of alternatives C-1 and C-2 as compared with alternative C. In terms of essential descriptive conclusions, the FEIS revises the characterization of alternative C-1 and C-2 water quality impacts from “very high potential for additional impacts” in the DEIS to “moderate potential for additional impacts” in the FEIS. In addition, the DEIS conclusion that alternative C would have a moderate potential for additional impacts to storm water contaminants is downgraded in the FEIS analysis to a “high potential” for such impacts.

While acknowledging that the C-1 and C-2 alternatives require a much longer crossing of sensitive areas and would create more impervious surface resulting in greater area exposed during construction, the FEIS nonetheless concluded that the alternative C option has a higher risk for erosion and sedimentation impacts based on the following reasoning:

“Alternative C would cross the south end of BBC 45, a Class 1 wetland, and immediately downstream of BBC 52 (approximately 900 to 1,000 feet south of the bog community), but approximately 1,600 feet upstream of the large Class 1 wetland, BBC 44, which contains another bog community....

“Regarding water quality treatment, given the relatively flat topography and large forested area that adjoins the Alternative C-1 and C-2 alignments, dispersion of storm water runoff directly into forest, rather than collecting flows and routing them to detention/water quality facilities, would be a lower impact method of managing storm water for these alternatives. Forest dispersion for rural residential roads . . . is an allowed exception to King County Surface Water Design Manual Section 1.2.8 Code Requirement 8 in all basin classifications, including bog basins....

“Dispersion of storm water runoff directly into forest would not be feasible for Alternative C. It is expected that Alternative C would use concrete for the bridge deck, piers and abutments, and given the proximity of the Alternative C alignment to the Wetland BBC 52 bog (approximately 900 to 1,000 feet down stream of the bog community), there would be a risk of accidental release of concrete leachate to Wetland BBC 52. The risk of unintended concrete leachate impacts to the acidic wetlands and bogs with the development of Alternative C-2 and Alternative C-1 is considerably less, given the distance between these potential roads and the BBC 52 bog (approximately 1,300 feet from the bog community). (Exhibit 5a, Appendix A, page 37)

51. The FEIS rationale for its conclusion that the alternative C-1 and C-2 options have only a moderate potential for impacts to the water quality of sensitive bog wetlands is less than compelling. First, the DEIS analysis was based on the greater impervious surface required by the C-1 and C-2 crossings, which will produce more contaminants and greater exposure during construction over a longer period of time. While noted, none of these factors were analyzed in

the FEIS response. Moreover, the FEIS appears to place great importance on the fact that the C-2 alignment lies about 1,300 feet from the edge of the BBC 52 bog while the alternative C alignment is about 1,000 feet away. But this distance differential does not seem particularly critical when one considers that the C-2 alignment is upstream of the bog while the C alignment is downstream. It is likely that the C-2 alignment's slightly more distant location would be offset by its more quickly traversed flow path. Last of all, the FEIS analysis assumes, but does not demonstrate, that forest dispersion of runoff from the eastern end of the C-2 route can be achieved without contaminated flows entering into the BBC 52 or E 6 wetland systems. At most, the FEIS analysis appears to support a conclusion that the alternative C impacts should be changed from "high" to "very high", not that the C-2 alignment impacts deserve a "moderate" rating.

52. There seems to be less dispute between the draft and final EISs concerning the wetland displacement impacts of the C-1/C-2 alternatives, which would fill .4 of an acre of wetlands and between 5 and 6 acres of wetland buffer. The DEIS describes these impacts as follows:

"This would include approximately 0.1 acre (5,200 square feet) of Wetlands EC 61, EC 4, and CC, which are identified as King County Class 1 wetlands, and approximately 0.3 acre (nearly 11,000 square feet) of Wetland VS 15 which is identified as a King County Class 2 wetland....

"In addition, the site of compensatory mitigation for wetland impacts from the Redmond Ridge UPD (the VS 15 mitigation site), which totals about 3,000 square feet, or 0.1 acre, would be eliminated. This area would need to be replaced in order to fulfill mitigation requirements for past wetland impacts associated with the Redmond Ridge UPD." (Exhibit 4d, Appendix, I, page 51)

53. The draft and final EISs are also in accord as to the impact of the alternative C-2 road connection on the designated wildlife habitat corridor within Redmond Ridge that any of the road alternatives would need to cross:

"Access Alternatives C-1 and C-2 have the potential to isolate wildlife populations, facilitate exotic species introduction and increase human disturbance. The forest edges created along the roads and stormwater facilities would be unsuitable for some interior forest, plant and animal species, but would provide additional habitat for some urban-or edge-adapted species, some of which are exotic and invasive and can displace native species.

"As with Alternative C-1, the Alternative C-2 road crossing would interrupt the large (approximately 500 acre) north-south wildlife habitat network retained on the Redmond Ridge site at nearly its widest point (approximately 2,500 feet wide), which would interrupt movement patterns of some animal species. King County staff considers that construction and operation of Alternative C, C-1 or C-2 would result in a significant unavoidable adverse impact to the wildlife habitat network on the Redmond Ridge site. Roads constructed across the NRPA sensitive area tract at any location (C, C-1, or C-2) carry the risk of

animals being struck and killed by vehicular traffic. In addition, animal-vehicle collisions pose a significant risk to human health and safety....

“As with Alternative C, and C-1, lighting of the C-2 roadway would bisect the large native forest habitat within the existing NRPA with a narrow corridor of light during night time hours. This illumination could alter the distribution of some local insect populations (such as moths) that are attracted to light. This in turn could affect local foraging patterns of nocturnal species (such as bats) that feed on such insects. In addition, the light could affect movement patterns of other nocturnal animals. Some animals may be drawn to the light, and others may avoid the light. The effects of lighting would be considered incremental in the context of the primary impacts (habitat loss or alternation) of constructing a road across the NRPA.” (Exhibit 5a, Appendix A, pages 40 and 41)

54. Because the Redmond Ridge East application is not deemed vested to regulations in effect prior to its approval, a major issue raised with respect to the proposed road crossings connecting Redmond Ridge East and Redmond Ridge is whether placement of such facilities within the Redmond Ridge NRPA and its wetland system can be accomplished without violating the new Critical Areas Ordinance. DDES’s conclusion on this question is stated on page 24 of its staff report:

“With regard to the Road Alternative C-2 crossing supported by County staff, staff has concluded that the wetland encroachments which will occur from this crossing are an allowed alteration under Section 142 of the CAO. No further Critical Areas Alteration is required for this road connection.”

Quadrant, which was initially reluctant to embrace the C-2 alternative, eventually expressed its support for this interpretation.

55. The staff-proposed permit conditions contained in Exhibit 227 implement this interpretation through a variety of measures. Permit section 1.3.2 requires an application to alter the Redmond Ridge plat in order to create the C-2 road alternative be submitted and approved before issuance of building permits for more than 250 dwelling units in Redmond Ridge East. Section 2.1.2 J requires generally “stormwater detention facilities on Redmond Ridge East discharging to on site or off site wetlands which contain bogs or bog-type vegetation” to include protection measures derived from the sphagnum bog protection menu of the Surface Water Design Manual. This permit subsection by its terms does not apply to Alternative C-2 discharges offsite on Redmond Ridge that may end up in bog wetlands. Section 2.1.2 L requires construction stormwater runoff not to be discharged to bog wetlands BBC 52, BBC 53 or E 6 “unless King County determines no feasible alternative exists”.
56. Permit condition 2.1.3 deals specifically with alternative C-2 mitigations. Road runoff within Redmond Ridge tract SA-5 is to be accommodated by sheet flow dispersal, filter strips or biofiltration swales with the objective of eliminating or minimizing any requirement for detention ponds. Mitigation is required for wetland and wetland buffer direct impacts but not for areas used for storm water dispersal. Mitigation for wildlife impacts consists of the installation of 24 inch diameter road culverts “to facilitate the migration of small animals”.

57. Unfortunately, DDES and the Applicant appear to have underestimated the effect of the County's new Critical Areas Ordinance on the proposed construction of the C-2 road alternative. Section 137 of the CAO allows construction of a new public road within a generic wetland subject to requirements for minimization of the road width and the absence of another feasible location with less adverse impact. But the wetland system within the Redmond Ridge NRPA probably will not qualify for generic treatment. To the extent that any work is proposed within a bog wetland, such construction would be prohibited under section 187. Of more direct concern with respect to the proposed C-2 alignment itself, under section 112 of the CAO the cluster of three small wetlands that the C-2 road must cross in the middle of the NRPA tract (plus their two larger neighbors to the west, EC 61 and EC 4) appear to qualify for designation as a "wetland complex". This classification is based on the fact that each wetland is within 500 feet of another wetland in the complex, the complex contains class 1 or 2 wetlands, is vegetated with shrubs and trees, and there are no current barriers to animal migration. Even though located within an Urban Growth Area, due to the fact that this wetland complex is within a basin designated as "high" on the County's basin and shoreline conditions map, it must meet the buffer requirements of CAO Section 185 D.3. Of particular concern here is subsection (e), which only permits alterations within the buffer to a wetland complex "as long as the alteration is designed so as not to disrupt wildlife movement through the corridor." While road culverts for small animal passage may be a modest step in the right direction, it is beyond debate that bisecting the complex with a 56-foot wide right-of-way, traffic and bike lanes, a trail and street lighting will disrupt wildlife movement through the corridor.
58. One of the major regulatory changes contained in the new Critical Areas Ordinance is to upgrade a wildlife habitat network to the status of an amenity regulated under KCC 21A.24. CAO section 125 defines "wildlife habitat network" as the official network defined and mapped in the Comprehensive Plan "that links wildlife habitat with critical areas, critical area buffers, priority habitats, trails, parks, open space and other areas to provide for wildlife movement and alleviate habitat fragmentation." Unlike the generic wetland provisions, section 137 C prohibits the alteration of a wildlife habitat network for the construction or expansion of a public road.
59. If the alteration of a wetland complex or a wildlife habitat network for road construction is not permitted pursuant to section 137 of the CAO, the question then becomes whether the needed alterations can be authorized under the exceptions defined at section 142. Procedurally it should be noted that although the DDES proposed permit conditions undertake to approve the alteration directly as part of the UPD/FCC review, section 142 F refers to a hearing examiner decision made pursuant to an appeal of the Department's decision, thus suggesting that the intent is to implement for the exception process a type 2 format under KCC 20.20.020. This is of some practical importance to the extent that the C-2 road alternative is described within the FEIS merely as a range of conceptual possibilities and the mitigation requirements for the proposal are even more vaguely characterized. Even so, most of the major issues raised by the section 142 exception process can be identified sufficiently to determine whether it appears to be a realistic option from a regulatory standpoint.
60. A public road qualifies as a linear alteration under the CAO and therefore is subject to the requirements of section 142 A.1. This section requires that the proposed alteration demonstrate that there is no feasible alternative with less adverse impact on the critical area; that it minimizes adverse critical areas impacts, does not require the modification of a critical area development

standard or pose an unreasonable threat to the public health, safety or welfare; and is consistent with the purposes of the chapter and the public interest. Section 142 D also requires alteration exceptions to meet the applicable mitigation requirements of the CAO.

61. Applying the section 142 criteria to the proposed alteration of a wetland complex to accommodate the alternative C-2 crossing, a major obstacle to approval of the required exception would be concluding that there is no feasible alternative to the proposal with less adverse impact on the critical area. To the extent that the primary reason for the C-2 crossing is to divert project traffic between Redmond Ridge East and Redmond Ridge away from the congested Novelty Hill Road corridor, a feasible alternative is simply to defer Redmond Ridge East development until the Novelty Hill CIP is implemented, at which time the most urgent rationale for the C-2 alternative largely evaporates.

The requirement that the exception proposal minimize adverse impacts to wetland areas needs to be read in conjunction with Section 142 D mandating that the alteration meet the mitigation requirements of the chapter. The primary problem here would appear to be effecting compliance with the wetland mitigation requirements stated at Section 188 A.1, which mandate attainment of equivalent or greater wetland functions, including “habitat complexity, connectivity and other biological functions.” A roadway through a wetland system inevitably results in degradation of habitat complexity and connectivity. With regard to the development standards for wetlands stated at Section 187, the proposed alteration to accommodate the C-2 connector could be approved so long as adverse impacts to the wetland bogs are avoided.

62. Similar issues are encountered under Section 142 with respect to an alteration exception to construct a road that intercepts the wildlife habitat network. Again a feasible alternative is to wait a few years for the Novelty Hill CIP to be constructed. Moreover, the wildlife network mitigation requirements stated at CAO Section 204 B require the compensatory mitigation to “achieve equivalent or greater biologic functions including, but not limited to habitat complexity and connectivity functions.” Here once more the drastic bifurcation resulting from placing a major roadway across a broad expanse of wildlife habitat network will reduce complexity and connectivity functions within that network regardless of the mitigations imposed.
63. The critical areas issues raised by the staff-proposed C-2 road alternative entirely concern properties offsite within the Redmond Ridge UPD, which was approved by the County Council in January 1997 and is governed by a development agreement concluded soon thereafter. It is therefore beyond the authority of the Redmond Ridge East permit review to confer direct approval of construction of the road alternative C-2 within Redmond Ridge. The staff conditions acknowledge this fact within a requirement to obtain a plat alteration for the previously approved Redmond Ridge development. The Applicant’s brief embellishes upon this process by pointing out that the NRPA tract is now in fact owned by the Redmond Ridge Owner’s Association and that a modification to the Redmond Ridge site plan and conditions would be required to implement C-2. The issue here is whether in view of the much more stringent requirements of the recently adopted CAO the critical areas alterations required to construct the C-2 alternative can properly be characterized as minor modifications to the Redmond Ridge development agreement subject to approval by DDES administratively. An argument can be made that they would be major modifications necessitating a public hearing and Council approval. Moreover, KCC 19A.16.070 A requires that a plat alteration “shall comply with the regulations in effect at

the time the alteration application was submitted,” which by its terms would include the new CAO and would not be subject to the minor modification provisions of the Redmond Ridge development agreement.

G. TRANSPORTATION CONCURRENCY

Procedural Background

64. Certificates of transportation concurrency were issued by the King County Roads Services Division to the Quadrant Corporation on October 21, 2002, for a 12 field sports complex and on December 11, 2002, for 1,325 single-family units. The certificates were issued for the Redmond Ridge East proposal within concurrency zone 372. Friends of the Law has challenged the issuance of the Redmond Ridge East concurrency certificates.
65. Concurrency challenges tend to be complex, controversial and time-consuming. The present version of the transportation concurrency ordinance has eliminated entirely administrative appeals of residential concurrency certificates, but Ordinance 14375 in effect in 2002 when the Redmond Ridge East certificates were issued, authorized such appeals “as part of the review process for the development application” (Ordinance 14375, Section 3B). Quadrant made a pre-hearing motion for a ruling that although its concurrency rights were created in 2002 under Ordinance 14375, the rights of citizens to challenge its certificates should be governed by the currently existing provisions of Ordinance 15030. This motion was denied within a January 11, 2005, order. Under Washington case law ordinances only operate prospectively unless the ordinance itself prescribes retroactive application, it is curative or it is remedial. No language was found in the ordinance expressing a legislative intent for retroactive application or curative operation. The appeal procedure within the current ordinance is not remedial because it extinguishes entirely an appellant’s appeal rights.
66. Having determined that with respect to transportation concurrency issues all parties’ rights were defined in 2002 when certificates were issued to Quadrant under authority of Ordinance 14375, the second threshold question became one of defining the permitted scope of a concurrency appeal and the standards applicable thereto. As the appeal brief submitted on behalf of Quadrant delicately notes with respect to its appeal provisions, “Ordinance no. 14375 is scarcely a model of clarity.” A likely explanation would be that Ordinance 14375 came into existence near the midpoint of a transition between the County’s initial system of making highly particularized, property-specific concurrency determinations and its current posture of providing a regional, map-based approach. Thus the ordinance’s appeal provisions contain elements of both approaches—stating at one point that there is an appeal process and suggesting at another that there really may be nothing to appeal.
67. The relevant portions of the Ordinance 14375 appeal provisions are stated in sections 3B through F, as follows:
 - “B. Challenges to concurrency approvals may be raised as part of the review process for the development application for which the certificate of concurrency was issued.

- C. For appeals of concurrency denial or approval, the appellant must show that:
 - 1. The department committed a technical error, defined as errors in arithmetic, table and map lookups and similar clerical functions;
 - 2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered;
 - 3. Conditions required by the department for concurrency are not related to the concurrency requirement; or
 - 4. The action of the department was arbitrary and capricious as defined in Washington law.
- D. The standard of review when considering whether a technical error was committed shall be compelling evidence that the department made an error in arithmetic, table references or other such mechanical or clerical error. Appeals based on technical error shall not call into question the underlying traffic model or its inputs.
- E. For appeals on grounds other than technical error, the department's dependence on its professional judgment and experience will be given due deference by the hearing examiner.
- F. Any issues relating to the adequacy of the traffic model shall be raised to the county council during the annual council adoption of the concurrency map."

Our concern is primarily with the meaning of the technical error standard stated at section 3C.1, as modified by section 3D, and the arbitrary and capricious standard set forth at section 3C.4, as modified by section 3E.

- 68. The first thing to be observed about the technical error standard is that it is narrowly defined. As used in the ordinance appeal provisions, "technical error" means essentially mathematical mistakes and the incorrect derivation of a value or status from standard reference documents. In addition, a technical error challenge is limited by the proviso that it "shall not call into question the underlying traffic model or its inputs." Because mathematical mistakes and lookup errors can affect the concurrency determination, there is an apparent conflict between section 3C.1 and section 3D that needs to be resolved.
- 69. The Hearing Examiner decision in the *Miller & Miller Construction* concurrency appeal (Department of Transportation file no. 02-03-13-01, August 21, 2002) attempted to resolve this inconsistency and was called to the attention of the parties as a precedent for interpreting the technical error review standard. No party has challenged the *Miller* interpretation of the technical error standard, and it will be applied in this proceeding to the extent of its scope. The *Miller* decision resolved the tension between the technical error definition and the limiting

proviso concerning the underlying traffic model or its inputs by reference to the definitions applicable to Ordinance 14375 adopted earlier within Ordinance 14050. Section 8X of Ordinance 14050 defines “traffic model” to mean “the computer program and data used to forecast traffic volumes....” Because the traffic concurrency determination is based on applicable volume/capacity ratios, the *Miller* decision held that challenges to volume inputs were precluded because they involved components of the traffic model but that challenges to capacity inputs were permitted if they met the technical error definition. The specific ruling in *Miller* was that a road capacity determination based on the incorrect use of a lookup table was an appealable technical error, whereas an issue regarding the existence and location of a centroid connector related to the volume side of the V/C ratio and therefore was nonappealable.

70. The *Miller* decision did not interpret the standard set forth within section 3C.4 of Ordinance 14375, which sets out as a grounds for a concurrency appeal that the Department’s action “was arbitrary and capricious as defined in Washington law.” We understand the ordinance reference to specify the arbitrary and capricious standard stated in Washington case law without inclusion of any adaptive modification to conform to a particular statutory framework. The following is a basic statement of the arbitrary and capricious standard:

“Agency action is arbitrary and capricious if it is willful and unreasoning and taken without regard to the attending facts or circumstances. Where there is room for two opinions, an action taken after due consideration is not arbitrary and capricious even though a reviewing court may believe it to be erroneous.”
Hillis v. Department of Ecology, 131 Wn. 2d 373, 383 (1997).

Review of an agency’s findings under the arbitrary and capricious standard does not require a determination that such findings are based on substantial evidence but does mandate the existence of at least some competent evidence which is rationally supportive of the finding.

71. It is also clear that the facts and circumstances that are subject to review under the arbitrary and capricious standard are those that were in existence when the relevant determinations were made, not those that may now appear to be correct with the added benefit of hindsight. In *State v. Ford*, 110 Wn. 2d 827 (1988), the court undertook to review the actions of the state toxicologist:

“The very nature of the inquiry is what the toxicologist did, what facts he relied upon, whether he acted without any rational relation to the facts before him. Conclusions about the action of the toxicologist are based upon what he did or did not do. These are events, occurrences, realities as to what took place. They are facts. 110 Wn. 2d at 831 See, also, *Washington Independent Telephone Association, et al. v. Washington Utilities and Transportation Commission*, 148 Wn. 2d 887, 906 (2003).

72. The arbitrary and capricious standard is intrinsically a highly deferential level of review. A reviewing court does not set aside an agency action taken after due consideration even though the court believes it to have been erroneous. A specific issue of interpretation under the County’s concurrency appeal provisions arises from the fact that section 3E of Ordinance 14375, which applies to appeals on grounds other than technical error, can be read to suggest that even under

the arbitrary and capricious standard the Department's professional judgments should be accorded an additional level of deference.

Such a compounded degree of deference, if applied to the already deferential arbitrary and capricious standard, would reduce such standard to meaningless semantic mush. Washington appellate decisions make clear that this is not the proper outcome:

“Although the court gives due deference to the specialized knowledge and expertise of the administrative agency, such deference does not extend to agency actions that are arbitrary, capricious, and contrary to law.” *Schneider v. Snyder's Foods*, 116 Wn. App. 706, 716 (2003).

In short, due deference to agency expertise does not include the prerogative to make an arbitrary and capricious decision.

73. Another potential source of confusion is the attempt of Quadrant's brief to read into the Ordinance 14375 standards a "harmless error" exception. Harmless error normally refers to a mistake of law or fact in a court's judgment, opinion or order that is deemed to have had no effect on the outcome of the proceeding. These are frequently procedural mistakes where evidence has been admitted that should have been excluded but the reviewing court determines that the mistake was inconsequential to the outcome. A parallel concept appears in the Land Use Petition Act at RCW 36.70.C.130(1)(a), which allows reversal of a land use decision for procedural or processing error "unless the error was harmless." The Quadrant brief without logic or justification attempts to convert a procedural concept applicable to judicial review of court or land use decisions into a substantive basis for justifying bureaucratic determinations. The Examiner is not aware of any Washington case law that supports modification of the arbitrary and capricious standard to include this novel type of harmless error exception.
74. More defensible is Quadrant's assertion that the "Examiner's jurisdiction to review arbitrary and capricious action must necessarily be limited to review of issues not barred by the other appeal provisions of Ordinance no. 14375." (Quadrant's post-hearing brief, page 6) Under the theory of the *Miller* decision, certain data errors on the volume side of the V/C ratio are insulated from review under the technical error standard, and one can argue that it would be inappropriate to consider the very same mistakes under the arbitrary and capricious standard. Certainly this would be true to the extent that the only grounds for regarding an action as arbitrary and capricious were that it was based on mathematical, clerical or lookup table mistakes. On the other hand, if the alleged improper action entailed more than simply a technical error as defined in the ordinance, it would remain subject to appeal under the arbitrary and capricious standard notwithstanding that it additionally constituted technical error.

But the most serious problem with the Quadrant argument is that it attempts to expand the scope of the term "technical error" beyond the narrow definition provided at Ordinance 14375. While the entire transportation concurrency determination process can be described as technical in nature, for appeal purposes the term "technical error" only applies to those few actions described in section 3C.1 of Ordinance 14375. Errors of a technical nature that fall outside of the ambit of the ordinance definition can be reviewed under the arbitrary and capricious standard without regard to which side of the V/C ratio they fall or whether they relate to other technical matters

entirely. In general, the characterization of Redmond Ridge East traffic concurrency issues that appears at section II.G of the Department of Transportation's post-hearing brief provides an accurate road map to applying the ordinance review standards in this proceeding.

75. The Friends of the Law challenge to the issuance of traffic concurrency certificates to Quadrant for the Redmond Ridge East development was further enlivened by the fact that many of the same issues had been raised previously on February 28, 2003, within a whistleblower complaint filed by five members of the Road Services Division's Travel Forecasting and Data Management group (TFDM). The essential thrust of the TFDM complaint was that the Division's Transportation Concurrency Management group (TCM) improperly issued concurrency certificates for the Redmond Ridge East proposal. The whistleblower complaint thus overlaps the FOTL appeal in many respects, including allegations concerning the capacity assumptions for Novelty Hill Road, inclusion of capacity from unfunded CIPs, improper exclusion of Snohomish County background growth from the concurrency determination, and various calibration and verification errors.
76. At bottom, the whistleblower brouhaha appears to be a turf war between the TFDM and TCM groups, which are each responsible for a different segment of the traffic modeling process. The TFDM group was created to develop a traffic model for long-term planning purposes, while the TCM group is responsible for issuance of concurrency certificates for development proposals based on modeling for the six-year concurrency framework. To make a long story short, the TCM group takes the long-range planning model developed by the TFDM group and modifies it for its shorter term permitting purposes. The internal disputes appear to center on this modification process, with the TFDM group asserting that its recommendations for valid model adaptation have been ignored by the TCM group. Since the filing of the whistleblower complaint it appears that the TFDM group no longer attempts to advise the TCM group, which may make for less stressful interpersonal relationships but has some major institutional drawbacks. The Redmond Ridge East hearing was thus enlightened by conflicting testimony from players on both sides of the whistleblower controversy.

The Traffic Model Runs

77. Traffic concurrency modeling test runs have been submitted to the record by the Department of Transportation that describe the zone 372 concurrency tests under different scenarios. Exhibits 37 and 55, which are identical and were distributed to the parties prior to the hearing, contain the plots for the zone 372 concurrency test as it was performed in 2002 for issuance of the Redmond Ridge East concurrency certificates. These documents are supplemented by Exhibit 192, which shows the zone 372 trip distribution for the 2002A run with the inclusion of the Department's centroid connectors. The history of the development of centroid connectors for zone 372 and the Redmond Ridge zone 370 adjacent to the west can be traced through Exhibit 268, which shows the 1998 base network generated by the Traffic Forecast and Data Management group, Exhibit 269, which shows the TFDM year 2020 base network and includes the centroid connectors shown in Exhibit 192, and Exhibit 270, which is the modified base network generated by TCM in 2001 for the concurrency process. These exhibits collectively represent the information that was either available to or generated by the 2002A concurrency run performed by TCM for Redmond Ridge East.

78. Although the pre-hearing order for Redmond Ridge East established a February 8, 2005, disclosure deadline for new reports or studies relating to the Applicant's proposal, the parties collectively chose to ignore this restriction with regard to the concurrency portion of the hearing, and a number of new analytical documents were produced and introduced to the record during the hearing itself without objection from any party. These include two sets of traffic concurrency test reruns performed by the Department which were introduced into evidence on March 3 and March 25, 2005. The first set, Exhibits 186 and 187, consists of traffic model reruns performed by the Department in February 2005 which purport to include the objections raised by FOTL in its concurrency challenge and to demonstrate that, if the alleged errors are corrected, zone 372 would still pass concurrency. The Exhibit 186 rerun assumed a travel speed on Novelty Hill Road of 35 miles per hour, and Exhibit 187 is the same run under a 45 mile per hour scenario. In addition, Exhibit 190 supplements Exhibit 186 by displaying the trip distribution for the 35 mile per hour run, and Exhibit 191 provides the distribution for the 45 mile per hour scenario. As described by the Department in Exhibit no. 185, the 2005 runs modified the 2000A model run by changing certain road capacities, making lane and speed corrections, CIP project corrections and adding background growth data from Snohomish, Pierce and Kitsap Counties. Exhibits 250 through 252 offered by the Department on March 25, 2005, further adjusted the 2005 reruns introduced on March 3rd by correcting some 1998 traffic counts that were identified as erroneous.
79. The importance of the 2005 reruns lies in the claim by both Quadrant and the Department that these new tests demonstrate the inconsequentiality of the errors alleged by FOTL. It is necessary therefore to ascertain whether this is a tenable proposition. At the outset it should be recalled that the case law describing the arbitrary and capricious standard focuses upon the information available and the procedures followed at the time the action under review was taken. Certainly it is clear that a factual assumption that appeared to be reasonable in 2002 should not be deemed arbitrary and capricious in 2005 based on information that was unavailable on the earlier date. For example, if creating a centroid connector between concurrency zones 370 and 372 across a wetland complex was a permitted sensitive areas alteration in 2002, it would be unreasonable to conclude that it was an arbitrary and capricious action based on more restrictive regulations adopted in 2004. If such is the case, it also would be logical to say that a decision that was arbitrary and capricious in 2002 cannot be rehabilitated based on later information.
80. In addition, there are procedural reasons to be wary about the reliability of the 2005 model reruns. First, due to their late introduction no party other than the County has had an opportunity to verify the results. Second, to the extent that FOTL's claims are predicated on the Department employing incorrect programming procedures to operate the model, the 2005 reruns would be subject to the same processing objections put forward for the 2002A run.
81. More fundamentally, however, the principal objection to reliance upon the 2005 reruns is that they do not do what their proponents assert. Specifically, they are not simply the 2002A concurrency test modified to correct only the deficiencies alleged by FOTL. To begin with, within the 2005 reruns for the road network serving the Novelty Hill area TCM has assigned capacity increases of 100 vehicles per hour to each of five arterials, which for each roadway represents more than a 10 percent capacity increase. Nothing in the FOTL challenge alleges that the 2002A concurrency test understated road capacities. Second, while FOTL did question the capacity assumptions made within the 2002A model run for Novelty Hill Road, its assertion was

that the Novelty Hill Road capacity was overestimated. As described in Exhibit 185 and Mr. Grimes' supporting testimony, the change made for the 2005 reruns did not reduce the capacity of Novelty Hill Road as argued by FOTL but in fact construed the future CIP to increase the anticipated capacity even further.

82. The specific issues surrounding the capacity assumptions for Novelty Hill Road will be discussed in detail later in this report. As for the other capacity increases, they seem to be based on little more than an appeal to nomenclature. The 1998 base model developed by the TFDm group described these various arterials as "suburban", and the 2005 reruns changed the designations to "rural" and assigned additional capacity simply on the basis of the new label.
83. While this categorical approach receives some support within the modeling instructions prepared for the County by DKS Associates (Exhibit 167), at least two of these capacity increases appear to be in conflict with the current requirements of the 2000 Highway Capacity Manual. The 2000 HCM generally moves away from reliance upon subjective descriptors such as "rural" and "suburban" in favor of objective characteristics such lane number and width, topographical grade, and the frequency and timing of intersection controls. To the extent that roads are described as "rural", a defining characteristic of that designation appears to be that the roadway seldom operates at or near its capacity. (HCM, pages 8-20 and 12-16) A road should not be classified as a rural highway unless its signalized intersections are more than two miles apart. (HCM, page 10-1) "Two-lane highways in urban and suburban areas with multiple signalized intersections at spacings of 2.0 mi or less can be evaluated with the methodology of Chapter 15, 'Urban Streets.'" (HCM, pages 20-1 and 20-2) The single-direction capacity of an urban street is "determined by the number of lanes, the saturation flow rate per lane..., and the green time per cycle for the through movement at the intersection." (HCM, page 15-9)
84. The arterials within the area surrounding the Novelty Hill UPDs are in many instances relatively short segments of nominally rural roadway that serve to connect urban areas. They carry high volumes of traffic and are essentially urban commuter routes. Arterials provided by TCM with capacity increases and included within Exhibit 185, such as 204th Place Northeast/208th Avenue Northeast between SR202 and Novelty Hill Road and Union Hill Road between 208th Avenue Northeast and the Redmond city limits, are nowhere close to having two miles between signalized intersections. To increase their capacity simply based on a rural zoning classification appears to be indefensible. Moreover, the Comprehensive Plan itself recognizes the exceptional nature of the Novelty Hill area arterial system. While policy T-311 states a general rule that the underlying urban or rural classification should govern arterial designations, policy T-207 acknowledges that this principle does not apply to the Novelty Hill area. It refers to "certain arterials that pass through rural lands to serve the needs of urban areas" and describes these roadways as "urban connector arterials."

But the fundamental point is that even if the Department were able to justify seemingly questionable capacity increases, these changes do not strictly correspond to the criticisms leveled by FOTL. Therefore the 2005 reruns cannot be accurately described as representing the 2002A concurrency test modified only to accommodate the modeling assumptions challenged by FOTL. Our conclusion is therefore that the validity of the Redmond Ridge East concurrency determinations should be evaluated only in terms of the concurrency testing that was actually performed in 2002 when the certificates were issued.

Model Operation Errors

85. The FOTL appeal has sought to identify processing errors committed by the Road Services Division in the operation of the EMME2 computerized program for determining traffic concurrency. Most of the alleged processing errors initially identified by FOTL have been adequately explained and supported by County staff, with the consequence that only one alleged model operation error was actually argued within the FOTL post-hearing brief. Our discussion will therefore focus primarily on this particular issue. Among the errors alleged earlier, discussed within the hearing testimony and not further pursued by FOTL are contentions concerning how the AM and PM peak and off-peak operations of the model were conducted, the effect of manual entry of program instructions, the use of turning tables, and operator responses to division by zero outputs and other error messages.
86. The ultimate focus of the FOTL critique was the portion of the EMME2 program used for the concurrency test that generates trip tables. The FOTL allegation is that in running the EMME2 model for the concurrency test the Division staff shortened the process for generating trip tables in a manner that violated the operating instructions prepared by DKS Associates dated February 16, 2001, titled “King County Multi-Modal Travel Model Development, Phase I Report, Work Order 3” (Exhibit 167). The basic framework for model development is provided at page 1 of the report:
- “The Phase I KCTDM development follows the accepted methodology and practice in the engineering profession. The model structure includes the traditional four steps: trip generation, trip distribution, mode choice, and traffic assignment. Person trips generated in each “traffic zone” are distributed between areas based on relative attractiveness and travel times, and external trips, which pass through the study area, are added. Then, the number of person trips using each travel mode...is estimated for the total travel between each pair of zones. Finally, the total vehicle trips are assigned to the road network to produce the estimates of traffic volumes on each roadway section.”
87. The debate between FOTL and the Division centered on the interpretation of two flow charts. The first appears at page 4 of the report and is labeled “Figure 1, Model Flowchart.” The second flowchart appears following page B-4 in Appendix B at the back of the report and is labeled “Figure B-1, KCTDM Macros and External Files.” FOTL contends that the Figure 1 flowchart at page 4 describes the procedures to be used in generating trip tables for the concurrency determination, while the Division staff stated their understanding that the Figure B-1 flowchart was the procedure to be followed.
88. It is conceded by both parties that the Figure 1 model flowchart contains a looping element for the creation of trip tables. That is, an initial traffic assignment based on free-flow conditions is run through the model first, then in subsequent steps congestion is gradually entered into the traffic network until a state of equilibrium between trip productions and trip attractions is reached. The report summarizes this process as follows:

“KCTDM uses loops back to trip distribution. Each model run starts with a free-flow skim to initiate trip distribution, with three loaded loops. Person trip tables

are combined across the loops using successive averages (i.e. in the first loaded loop, the trip tables combine one-half of the free-flow distribution with the first loop distribution, and the second loop, two-thirds of the prior loop plus the second loop distribution, etc.).” (Exhibit 167, page 24)

FOTL asserts, based on the testimony of Dr. Chen the former supervisor of the Division’s TFDM group, that this trip table creation process requires four loops consisting of 30 iterations each.

89. The King County Travel Forecasting Model described in Exhibit 167 is used for a wide array of predictive purposes, only one of which is testing for transportation concurrency:

“KCDOT will use KCTDM for technical studies to support a variety of projects, programs and plans, including Concurrency, the Mitigation Payment System (MPS), the Comprehensive Plan and the Capital Improvement Projects (CIP). These analyses require use of an acceptable regional travel demand model that encompasses the appropriate level of detail and produces reasonable forecasts and is calibrated and validated to nationally accepted practices or standards.” (Exhibit 167, page 1)

The Division’s response to FOTL’s assertions is that the Figure 1 flowchart is intended to guide initial development of the forecasting base model, but once it has been constructed and validated, the relatively limited adjustments to the base model required by the concurrency testing process do not require the four loop, thirty iterations per loop, trip table development described in Figure 1. Rather, they can be adequately satisfied using a free-flow distribution of the type outlined in Figure B-1. FOTL counters this assertion by reference to the comment in the Appendix B overview that “Flowchart B-1 illustrates the relationship between the macros and external data files” and argues that it does not describe an operational process. Nonetheless, it was the testimony of Aaron Grimes, the Division’s technician who operates the model for concurrency purposes, that the Figure B-1 flowchart described “the process that the consultant that gave us the model when they delivered it to us, this is the process we use. This is the process that he provided for us.” (April 11, 2005, transcript, page 142)

90. The record also contains speculation as to the actual effect on the concurrency process of generating trip tables based on the one loop free-flow condition as opposed to adding congestion to the process under the four loop procedure preferred by Dr. Chen. The consensus of the Division’s witnesses was that for Redmond Ridge East the free-flow condition would increase the number of project trips assigned to Novelty Hill Road and thus overstate the project’s impacts. This speculation appears to be accurate as far as it goes, if one assumes that under free-flow conditions westbound Redmond Ridge East traffic will prefer the Novelty Hill Road route. The corollary to that of course is that the free-flow, uncongested distribution may underassign traffic to alternative routes such as Union Hill Road and 208th Avenue. The value of the free-flow distribution is that it shows where project traffic would go under optimal conditions, but it distorts traffic to the extent that actual conditions may be less than optimal.
91. FOTL has not made out a compelling case that Figure 1 within Exhibit 167 is intended to regulate all operations of the County traffic model as opposed to just providing an overview of the most elaborate function of the EMME2 program to generate a base-year model. While the

Figure B-1 flow chart is ambiguous as to its import, it is not inherently unreasonable that DKS Associates may have provided to the Division instructions for concurrency operation of the model that employed B-1 and abbreviated some of its other more complex operations. Such was the testimony of Mr. Grimes, and FOTL introduced no evidence that contradicted this assertion. In summary, as described in Exhibit 167, Figure 1 clearly sets out a flowchart for overall development of the model and says nothing about specific model applications after such development has occurred. The record does not support a finding that following the Figure 1 flowchart is mandatory for concurrency tests. On the other hand, if the FOTL argument is that the Figure 1 flowchart should be employed for concurrency purposes regardless of what DKS or Exhibit 167 said, then the challenge becomes one to the adequacy of the model itself and is precluded by section F of Ordinance 14375.

92. Although challenges of a somewhat different character, there are two further issues identified by the FOTL post-hearing brief that can be classified as invoking procedural error as a basis for the appeal. Within a March 22, 2005, model run Mr. Grimes inserted updated 1998 traffic counts into the model from Redmond, Woodinville and the Washington Department of Transportation; then after generating a failing critical links score for Redmond Ridge East, he deleted this updated 1998 data. FOTL claims that his action in deleting the new 1998 data constituted inadequate consideration of “alternative data...submitted to the department” in violation of section 3C.2 of Ordinance 14375. This is an inventive argument, but it doesn’t quite fit the ordinance framework. The reference to alternative data “submitted to the department” obviously looks to information submitted by an applicant at the time of an original concurrency test. While the exclusion by the Division of the updated 1998 data described above may or may not be defensible, this alleged error does not fall within the subsection 3C.2 category.
93. The FOTL brief also contains an assertion that the 2005 concurrency reruns submitted by the County demonstrate that zone 372, encompassing the Redmond Ridge East property, falls within 10 percent of exceeding the adopted TAM or critical link level of service standard and therefore should be coded yellow as a monitored zone on the concurrency map. The brief asserts that the “County’s failure to impose the caps required by the code is arbitrary and capricious.” The problem with this argument is that it does not fall within the scope of issues permitted to be raised in a concurrency appeal under Ordinance 14375. The ordinance authorizes an administrative challenge to a concurrency certificate issued on the basis of the adopted concurrency map but not a challenge to the map directly. Demonstrating that a zone should have been coded yellow as a monitored zone does not demonstrate necessarily that a concurrency certificate issued for that zone was based on invalid modeling procedures or assumptions. Moreover, we have previously declined to rely upon the 2005 test runs because they do not satisfactorily replicate the 2002A concurrency test for Redmond Ridge East. The deficiencies described above in findings 79 through 84 apply to the 2005 runs in all their manifestations, both in support of the certificates issued and in opposition as well.

Capacity Issues

94. Under the appeal provisions of Ordinance 14375 as interpreted by the *Miller* decision, alleged errors within the concurrency process related to the determination of road capacity may be reviewed under the technical error standard to the extent of the matters defined therein. Otherwise they may be considered under the arbitrary and capricious standard. The principal

capacity issues assert that the 2002A concurrency model assumes the existence of future road capacity beyond the levels financially committed within the relevant adopted CIP. With respect to Novelty Hill Road specifically, a further contention is that even if some additional CIP-based capacity may be justifiably assumed, the actual figure employed by the 2002A concurrency model is unsupportable.

- 95 The issue of whether the concurrency model contains unfunded CIP capacity was first raised within the whistleblower complaint, which cited a number of incorrect capacity assumptions both within the Bear Creek vicinity and in surrounding areas. Besides the Novelty Hill Road widening project, the other CIP error of importance to the review of concurrency for Redmond Ridge East concerned Avondale Road north of its Novelty Hill Road intersection. The 2002A concurrency run coded the capacity within this road section at five lanes, whereas the actual current constructed configuration is two lanes. The Road Services Division has conceded that in 2002 there was no CIP adopted for a five lane improvement along this stretch of Avondale Road. The David Evans and Associates December 2003 investigation of the whistleblower complaint (Exhibit 46) in discussing the CIP errors in the TCM model collectively made the following observations:

“The TCM model includes miscoded links that represent capacity that will not be constructed according to current CIP project lists. These projects include County and other agency projects. The error appears to be a result of poor quality control. TCM staff documentation for network changes is fragmented and incomplete. ...TCM staff acknowledge the errors...The miscoded links may affect traffic forecasts used for concurrency testing. The additional capacity represented by these errors in the model could be directing forecast travel away from monitored links, or it may be increasing traffic forecasts on monitored links by eliminating constraints in the overall model network.” (Exhibit 46, page 20)

At the hearing one of the whistleblower complainants, Hossein Barahimi, opined that overstating capacity on Avondale Road north of Novelty Hill Road would likely reduce the modeled traffic distribution on Novelty Hill Road.

96. The CIP adopted by the County for 2001 provided the basis for describing the six-year committed network applicable to the 2002A concurrency determination. The two CIP projects of particular interest to our discussion are no. 100901 and 100992, both of which affect Novelty Hill Road. Project 100901 is the westerly of the two projects and undertakes to upgrade a short stretch of Novelty Hill Road (0.1 miles) running from the Avondale Road intersection east to the Redmond city limits. As defined within the adopted CIP, the scope of work is to “widen the existing two-lane road to five lanes and provide curb, gutter, sidewalks and drainage improvements.” This includes on Novelty Hill Road at the Avondale Road intersection two westbound left-turn lanes and a right-turn lane, as well as a northbound right-turn lane from Avondale Road to Novelty Hill Road. CIP 100901 in 2001 was funded for just under 1.1 million dollars for construction in 2003, but noted that there was also an EIS in progress within a reference to CIP no. 100992. The 2001 scope of work for CIP no. 100992 specified that the EIS being done for it would also cover CIP no. 100901. CIP no. 100901 has yet to be constructed, and the project description contained in the 2001 CIP has been readopted nearly verbatim for 2005 based on a 2007 construction date.

97. The 2001 CIP for project no. 100992 covers the 3.5 miles of Novelty Hill Road running from the Redmond city limits east to the Redmond Ridge UPDs. It was funded for a total of more than 46 million dollars. This amount included 42.6 million dollars of new funds, of which somewhat more than 36 million dollars were allocated in 2006 for construction and associated administration. The 2001 CIP disclosed that the project was then in the environmental review phase and described the scope of work as “perform preliminary engineering and environmental/geotechnical investigation in support of developing the draft and final EIS for widening of Novelty Hill Road from Redmond city limits to Redmond Ridge UPDs.” The 2005 CIP adopted for this project retained the same basic scope of work description but clarified the eastern limit of the project to be 243rd Avenue Northeast and added the statement that “design, right-of-way and construction scope to be determined from EIS analysis.” The 2005 CIP also reduced the total project funding amount from 46 million dollars to 40 million dollars, with construction and construction management slated for 2009 at slightly more than 19 million dollars.
98. The County’s efforts to devise a satisfactory solution to the chronic congestion problems afflicting the Novelty Hill Road/Avondale Hill Road corridor date back at least to 1989, when the Bear Creek Community Plan policies were adopted that authorized the Novelty Hill Master Plan Development. Concurrently with the land use planning process, the King County Department of Public Works issued in March 1989 the Avondale Road Corridor Study (Exhibit 259), which attempted to identify the long-term needs for corridor development and set out three fundamental scenarios for further consideration. They included putting primary emphasis on widening the Novelty Hill Road/Avondale Road corridor itself, as well as Avondale/Novelty Hill Road corridor widening supported by a second north/south arterial route to Union Hill Road either along 208th Avenue Northeast or 196th Avenue Northeast. All scenarios also envisioned the widening of the western end of Union Hill Road. In July 1991 the City of Redmond issued an update to the Avondale study that included an analysis of the new Town Center development and assumed construction of the 196th Avenue Northeast option. It strongly suggested that the Avondale Road/Union Hill Road intersection could only achieve a satisfactory level of service through construction of grade-separated movements.
99. Despite its relative antiquity, the Avondale Road Corridor Study continues to have vitality. In 1989 the Bear Creek Community Plan Policy BC-45A stated that the study “recommendations shall be used as a basis for traffic mitigation requirements for both city and county development affecting the corridor.” Policy BC-45A appears in nearly the same form as originally adopted in 1989, now redesignated as policy CP-112 of the 2004 County Comprehensive Plan, with only a reference to the West Union Hill urban area having been deleted. Moreover, the conceptual alternatives identified in 1989 within the corridor study have re-emerged as the project alternatives under review within the EIS process for Novelty Hill Road CIP no. 100992 as presently defined.
100. Hearing testimony suggested that the CIP 100992 EIS process was in fact underway in 2001, but none of the witnesses had a clear recollection of exactly what designs were under review at that time. Staff testimony from the Road Services Division indicated that a conceptual design comprising three lanes on Novelty Hill Road between Avondale Road and 208th Avenue Northeast, with five lanes east of 208th Avenue Northeast through the UPDs, had become by internal consensus the leading scenario. There was no adopted CIP language to support this

assumption, but a June 20, 2001, email from Bill Oakes to John Shively (Exhibit 41) identified that some form of the three-lane/five-lane configuration was employed by Road Services Division staff in deriving the budget figures for the 2001 CIP. Mr. Oakes's email suggests that the 43 million dollar figure for new funding within the CIP no. 100992 budget was a "ballpark" figure based on historical costs of other road projects within the County. These figures were determined for a five-lane widening, but Mr. Oakes "also assumed that some of the project would end up being three lanes so I discounted the construction by a completely arbitrary 25 percent."

101. As the testimony of both Jennifer Lindwall, the manager of the CIP planning section, and county road engineer Paulette Norman made clear, when a CIP is subject to performance of an environmental impact statement, establishing the scope of the project must await publication of the EIS documents. The following excerpts are taken from Jennifer Lindwall's March 2, 2005, testimony:

"Q: Was this—what I am showing you is Exhibit 38, was this the county's formal determination of the scope of that project?

A: No, there's no formal determination of the scope until after the completion of the EIS.

Q: Is there any other description of the project for purposes of CIP funding?

A: Not beyond what's in there, in here, no."

(March 2, 2005, transcript, page 176)

* * *

"Q: Are you aware of any other documents that were prepared around the time of that 2001 CIP that would describe the Road Services Division's thinking regarding the widening project of Novelty Hill Road?

"A: No. I am not aware of any other documents at the time that this was prepared." (March 2, 2005, transcript, page 177)

* * *

"Q: Why is the county reluctant to put in definitions of lanes at the time they are doing an EIS?

A: We don't set a baseline scope, schedule, and budget in the CIP until after we have selected the preferred alternative. And we don't know specifically what it's going to be. So we identify the information that we have so as not to look like we are predetermining the EIS process." (March 2, 2005, transcript, page 182)

102. The uncertainty identified by Ms. Lindwall regarding information available for defining the 2001 CIP for Novelty Hill Road continues to this day. As described by county road engineer Paulette Norman, the study corridors for the EIS process have once again been expanded to include options similar to those identified within the 1989 Avondale study, and the process has become more complicated because the environmental review is being configured to conform to federal NEPA standards so that the potential for federal funding may be added to the fiscal mix. The current schedule looks to have a preferred alternative identified by the end of 2006 and a final EIS issued in 2007.

103. Indeed, the ongoing uncertainty surrounding CIP no. 100992, particularly with respect to the timing and adequacy of its funding, led to a major change within the FEIS for Redmond Ridge East in which the RRE traffic impacts were required to be analyzed on the hypothesis that the CIP improvements would not constitute part of the available roadway network for the project:

“The most significant change in the King County CIP as it relates to RRE is the funding changes for Novelty Hill Road (CIP # 100992). The updated CIP includes a total of \$2 million in funding for year 2004 and \$34 million for 2005-2009... King County is still defining the specific improvements that would be constructed by 2009 with the revised budget.” (Exhibit 5a, page II-3 and 4).

* * *

“During the first quarter of 2004, the Executive submitted a revised CIP to the Council that proposed elimination of a significant portion of the Novelty Hill Road funding. On June 28, 2004, the Council adopted a revised 2004-2009 CIP, which maintained much of the \$40.6 million in funding identified in the original 2004-2009 CIP that was adopted in November 2003...

“The County has not defined the proposed long-range improvements for the corridor; therefore, the costs of the improvements are not known. At this time, King County staff has not committed to funding the full improvements to Novelty Hill Road.... King County staff is still defining the specific improvements to be considered as an initial phase.” (Exhibit 5a, page II-7)

104. The County’s determination of traffic concurrency is designed to satisfy the requirements of the Growth Management Act. The GMA planning goal listed at RCW 36.70A.020(12) seeks to ensure that the public facilities and services needed to support development will be adequate under the County’s adopted level-of-service standards at the time such development is occupied. With respect to the transportation element of the comprehensive plan specifically, RCW 36.70A.070(6)(b), requires a local jurisdiction to “adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development.” The key term “concurrent with the development” is defined to mean that “improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.”
105. The County’s Integrated Transportation Program undertakes to meet GMA concurrency requirements for transportation through the application of a test to determine whether a proposed development satisfies the adopted transportation adequacy measure (TAM) and critical links standards. Section 1B of Ordinance 14375 states that the TAM calculation for a concurrency zone “shows the adequacy of the committed network relative to the adopted level of service.” Previously enacted definitions within section 8 of Ordinance 14050 incorporate the six-year improvement completion date into the definition of concurrency and define “committed network” to include existing transportation facilities “and proposed transportation facilities that are fully funded for construction in the adopted CIP.” The definition of “financial commitment” reiterates that “projects to be used in defining the committed network are fully funded for construction in

the six-years of the CIP.” The definition of “transportation facilities” limits such term to arterials, state highways and high occupancy vehicle facilities owned by the county, state or cities.

106. In interpreting these provisions, the critical question to be answered is which future transportation facilities and projects should be considered “fully funded for construction” in the six-year concurrency window represented by the adopted CIP. At the outset two things should be made clear. First, the time frame for evaluating the status of the committed network for our review is provided by the adopted 2001 CIP in effect at the time of issuance of the Redmond Ridge East concurrency certificates. The fact that the Novelty Hill CIP project may have become more ambiguous and complex in the years since 2001 would not render reliance on the 2001 CIP unreasonable if at that point the County’s commitment was clearly defined. Second, the determination of the committed network is to be based on the actual language of the adopted CIP and not on the history of staff speculation over what the CIP might or might not entail.
107. It is beyond argument that the adopted 2001 CIP made no commitment to a specific project for widening Novelty Hill Road. What this CIP accomplished was to fund the process of environmental review leading up to the selection of a preferred alternative and to make a significant initial financial commitment to carrying out the ultimate goal. But no decision was made in 2001 as to whether the future facility would constitute three lanes, five lanes, some combination of the two or something altogether different. And, indeed, as pointed out by both Ms. Lindwall and Ms. Norman, the SEPA review process itself precludes making such a commitment until appropriate environmental studies of the alternatives have been completed. (See WAC 197-11-070(1).) Moreover, while one can guess that the 30 million dollars earmarked for project construction in 2006 may have represented a reasonable ballpark estimate of project costs, until the preferred alternative has been chosen and a realistic construction commitment made, any evaluation of the adequacy of the figure remains speculative. Further, it is no secret that construction dollars specified for the last year of the CIP are frequently revised as the planned project construction date comes closer, and such figures are often pushed further out in later CIPs.
108. The pervasiveness of this practice of revising CIP commitments was documented in two 1996 County Auditor reports and described in a 1998 Hearing Examiner decision:

“There is no substantial dispute that prior to 1996 delays in projected construction completion dates for CIPs were the norm. The problem was identified within a TAM concerns list compiled in March 1994 on behalf of the Department of Transportation by Rao & Associates Inc. and received extensive treatment within two audit reports performed by the County in 1996. These audit reports focused on the massive carry-over of CIP construction funds from one budget year to the next, and concluded that the problem was primarily due to the Department’s practice of programming construction funds for projects that were still in the early stages of design. Since some 40% of the CIPs studied by the auditor took four or more years to design, the result was a major carry-over of budgeted construction funds and routine deferral of facility completion dates.” (*Greens at Beaver Crest*, L97P0011, October 23, 1998, report and decision, page 18)

In short, when there is a CIP that funds the EIS studies for a project without providing clear specification of what the preferred alternative is likely to be, there is at best a preliminary undertaking to make a future firm construction commitment once the alternatives have been evaluated. The 2001 adopted CIP made a credible commitment to perform environmental studies of alternative options, but such commitment had not evolved to the point that any definable Novelty Hill Road widening facility was “fully funded for construction in the six years of the CIP.” Until the EIS process was completed and a preferred alternative chosen, the capacity coding for Novelty Hill Road should have remained at a level consistent with the facility that then existed in 2001, plus any upgrades required of the UPD developer and scheduled for implementation within six years.

109. The 2002A concurrency test for the Redmond Ridge East concurrency certificates assumed for Novelty Hill Road a single-direction capacity of 1,750 vehicles per hour based on implementation of a three-lane/five-lane Novelty Hill Road CIP project. The TFD group programmed Novelty Hill Road within the 1998 base model at a directional capacity of 900 vehicles per hour, and the TCM group changed the capacity coding to 1,750 during its link adjustment process. Because the use of the 1,750 VPH figure was a primary basis for the whistleblower complaint filed by the TFD group and has been an ongoing focus of FOTL’s critique of the concurrency process, examining the history and utility of this future capacity figure became a major exercise within the hearing process. Even so, if it is plain that the fundamental issue is simply the propriety of including any Novelty Hill CIP new capacity into the 2002A committed network, then the correctness of the 1,750 VPH figure assumes secondary importance.
110. The hearing record is peppered with a variety of Novelty Hill Road capacity references which can be sorted into appropriate groupings based on the underlying lane assumptions employed. The following figures represent directional capacity estimates for Novelty Hill Road based on the two-lane configuration in existence prior to construction of any of the UPD projects:
 - 900 VPH—the assumed capacity for either a rural minor arterial or a suburban principal arterial pursuant to the reference work done by DKS Associates in 2001 for the King County Multimodal Travel Model development. (Exhibit 167) As noted, this is the figure used within the 1998 base model and is still currently used by the Department as the existing capacity of Novelty Hill Road between Avondale and 208th Avenue Northeast. (Exhibit 222)
 - 1000 VPH—this is the coding for a rural principal arterial under Exhibit 167, which is now being applied by the Department to Novelty Hill Road between 208th Avenue Northeast and the western edge of the UPDs.
111. The following codings appear in the record (or can be derived therefrom) based on the capacity of Novelty Hill Road as augmented by the interim improvements required by the Blakely Ridge and Northridge UPD approvals:
 - 1080 VPH—this represents the 900 VPH coded by the TFD group times a factor of 1.2 lanes to represent major turning lane improvements.
 - 1100 VPH—this is the figure cited by David Evans and Associates in its whistleblower complaint investigation (Exhibit 46) based on the 1998 National Cooperative Highway

Research Program Report 365 as a single-lane ultimate capacity for an intersection with an exclusive left-turn lane and high signal priority.

- 1200 VPH—this is the 1.2 lane coding recommended by Marai Associates for a rural principal arterial with the interim improvements constructed by the UPD developer. It appears in Exhibit 185 as a capacity assumption for the Department’s proposed concurrency retest and at Exhibit 222 representing the Department’s current capacity assumption for EIS purposes on Novelty Hill Road east of 208th Avenue Northeast.
- 1320 VPH—this is the National Cooperative Highway Research Program figure with a 20 percent upward margin of error, which represents the outer limit of modification supported by the Report 365 document.
- 1350 VPH—this is the single-lane PM peak hour capacity figure for Novelty Hill Road east of its intersection with 208th Avenue Northeast that was adopted in both the Blakely Ridge and Northridge decisions as a trigger for requiring further capacity projects to be constructed. Quadrant’s traffic engineer, Mr. Toedtli, believes that this figure should be regarded as the current operational capacity for Novelty Hill Road with the interim improvements. But as a construction requirement trigger, it more realistically represents an upper limit rather than an operational capacity at an acceptable level of service.

112. Finally there are the capacity figures for Novelty Hill Road that assume hypothetical construction of some type of CIP project:

- 1440 VPH—this represents the three-lane/five-lane configuration as formulated for the traffic impact analysis within the Redmond Ridge East final EIS. Quadrant’s traffic consultant explains this as differing from the TCM capacity figure in that it has been reduced to make it consistent with other prior capacity assumptions for the overall arterial network.
- 1750 VPH—this is the capacity assumption used in the 2002A concurrency test for the three-lane/five-lane CIP concept. The TCM group historically considered this to be the future operational capacity of Novelty Hill Road after the CIP construction has occurred.
- 1980 VPH—this is the projected capacity of a five lane CIP project based on 900 VPH per lane times 2.2 lanes. This figure was identified in Exhibit 185 as a changed assumption for the Department’s 2005 concurrency retest exercise.

113. A curious aspect of the hearing discussion of the 1,750 VPH figure was the difficulty that the Department of Transportation planners had in actually identifying the origin of this number. From 2001 through 2003 the TCM group apparently took the position that this number had been adopted by the County Council within the 1997 Northridge UPD decision. The December 2003 DEA whistleblower investigation cited this as the number’s source and provided Department internal documents that reflect this understanding. A December 12, 2001, memo from the MPS/TCM team to section manager Jennifer Lindwall contained the following discussion:

“It has been the past practice of the TCM team to adjust the capacities on monitored corridors as conditions warranted. Example: Novelty Hill Road improvement project, directional capacity and UPD’s reports lists capacity at 1,750 vehicles per hour (VPH), the 1998 new 1300 zone model, has this corridor coded with a directional capacity of 900 VPH and one lane. For this special case the Novelty Hill Road corridor, which is a TCM monitored corridor, the

lane variable was coded with 1.944 lanes to achieve the 1,750 VPH capacity listed in various studies of the UPDs.”

114. A Department of Transportation internal historical summary dated February 27, 2003 (also produced within Exhibit 46), and entitled “Novelty Hill Road Capacity Used for Concurrency” offered the following historical timeline:
- “1996: a specific analysis by King County Transportation System Planning and the UPD transportation consultant was done for a three-lane intersection enhanced Novelty Hill Road CIP project using 1985 HCM methodology. The emphasis was on adding additional capacity to key, controlling intersections at Avondale, 208th Avenue Northeast, Redmond Ridge UPD access and Trilogy UPD access.
 - The analysis identified a directional capacity range of 1,700 to 1,850 with a capacity of 1,750 considered by King County management as appropriate for Novelty Hill Road.
 - 1996: the 1,750 capacity and 1,700 to 1,850 capacity range were presented and discussed in the Redmond Ridge (Northridge) public hearings. The Hearing Examiner upheld the 1,350 capacity used in the concurrency test for the UPDs, and conditioned the development on additional capacity provided by the 1,750 capacity enhanced CIP project.
 - 1998: during the Elfelt FOIA requests, a 1,750 directional road capacity was used in the concurrency model. This capacity has been used in the model ever since.”
115. The foregoing descriptions of the genesis of the 1,750 VPH figure appear to be generally accurate as to overall timelines but contain some fundamental errors as well. First, the analysis of CIP project capacity appears to have been done by Quadrant’s engineer Mr. Toedtli and simply adopted by the Department as its own. Second, there is no compelling evidence that the 1,750 figure was ever more than a convenient midpoint number within a ballpark capacity range. More critically, while this capacity range was discussed at the Northridge hearing it is nowhere mentioned in either the Northridge EIS or the Northridge decision, within the findings or the attached permit conditions. Therefore, to suggest that the 1,750 figure was in some way formally adopted as a consequence of the Northridge approval is incorrect.
116. In summary, the current capacity of Novelty Hill Road as presently constructed with UPD-financed interim improvements is reasonably represented within Exhibit 222, that is, 900 VPH west of 208th Avenue Northeast and 1200 VPH between 208th Avenue Northeast and the UPD western boundary. Because the 2001 adopted CIP does not commit the County to any particular Novelty Hill Road widening project, the confusion surrounding the 1,750 VPH figure primarily reflects the fact that the CIP project had not progressed to the point where Department staff seriously needed to engage the capacity implications of the proposed facility upgrade. As a general rule, new capacity should not be assigned to a CIP that is subject to an EIS requirement before an EIS has been issued, and to speculate upon such capacity in evaluating a committed network prior to the identification of a preferred alternative is an error of law which constitutes arbitrary and capricious administrative action. While it may be true that no future public project that does not appear on an adopted CIP list should be included in the committed network, the converse is not necessarily the case. Inclusion of a project on a CIP list does not warrant an addition to the committed network until the fundamental scope of the project has been defined. Thus while all committed network public projects are CIPs, some CIPs in their early stages are not yet part of the committed network.

117. Lastly, a second capacity issue raised within the record merits brief mention. It concerns the fact that the TCM group amended the speed on Novelty Hill Road for the 2002A concurrency test from the 45 MPH coded into the 1998 base model to a lower speed of 35 MPH. The effect of lowering the modeled speed is to decrease the capacity of Novelty Hill Road within the concurrency testing procedure. In this instance 45 MPH represents the posted speed limit. Both 35 MPH and 45 MPH are within the range of national standards for two-lane roads, and no one testified that the adjustment to 35 MPH was an unreasonable modeling assumption to make in view of chronic congested conditions.

Volume Issues

118. The FOTL challenges to the transportation concurrency certificates issued for Redmond Ridge East also include the identification of alleged errors to the volumes assumptions contained with the 2002A concurrency model. These allegations concern the failure to include external growth data from Snohomish County for the years 1999 through 2001, mathematical errors in the computation of traffic counts used to make link adjustments within TCM's modification of the 1998 base model, potential modeling errors with respect to the creation of a centroid connector between zone 372 encompassing Redmond Ridge East and zone 370 representing Redmond Ridge, and the distribution of traffic to that modeled roadway link. Under the *Miller* standard articulated above, volume challenges cannot be reviewed as technical errors under the Ordinance 14375 appeal provisions. They may only be considered under the arbitrary and capricious standard.
119. The 1998 base model developed by the TFDM group contained external land use growth data from Snohomish County adjacent to the north. For the 2002A concurrency run the base model's land use data was updated with newly obtained permitting and concurrency data from King County cities, but similar data from Snohomish County was excluded. The desirability of including external land use data from Snohomish County from 1999 through 2001 is not in dispute. The Department entertained a substantial internal staff discussion concerning the need to incorporate such data and the reasons why such data would be useful. This internal discussion took place in early 2002, as described by staff testimony and supported by various emails within the record. The TCM group obtained Snohomish County household and residential permitting data but did not have the employment data in a useful form. Converting this external data into a form that would fit into the County's model appeared to be a lengthy and laborious task that would delay the completion of the concurrency model upgrade. Since the overall magnitude of Snohomish County growth from 1999 through 2001 appeared to be unremarkable and largely concentrated within the I-5 corridor, the TCM group decided to exclude the Snohomish County land use information from the 2002A model concurrency and introduce it into later procedures. It should be noted that a spike in Snohomish County traffic levels identified by transportation planner John Shively in reference to the Novelty Hill Road background volumes projected within the Northridge EIS was represented in the 1998 traffic data and thus was already incorporated into the base model.
120. The potential consequences of excluding the Snohomish County land use data in the context of Redmond Ridge traffic distribution is discussed in the DEA whistleblower complaint investigation report:

“We find that Snohomish County development activity is not accounted for in the TCM model. Further, we find that Pierce County development activity is not accounted for either. This appears inconsistent with the practice of including municipal development activity in King County. The TCM practices accounting for background increases on links affected by municipal growth inside King County, but no growth outside King County. The total number of trips forecast for a specific concurrency application is not affected by this omission. The distribution, that is the routes the trips take in the model after they leave the project access, could be affected by this omission. Further, the background traffic, that is the through traffic on County roads that occurs because of regional background growth, is likely affected by the omission of Snohomish and Pierce County growth.

“It should be possible to share concurrency pipeline data between Pierce and Snohomish Counties....The model is likely affected by the omissions of Snohomish and/or Pierce County growth. The effect of the omission is possibly minor, but in the case of critical links could be significant....

“A simple solution in the pragmatic sense of traffic models would be to add estimated growth to Snohomish and Pierce County zones in the model even in the absence of exact concurrency files. This could be done by reference to PSRC data...” (Exhibit 46, page 21)

121. There was some disagreement among the various witnesses as to how the exclusion of Snohomish County land use data comports with applicable legal requirements. It is clear that the six-year framework within the GMA transportation element described at RCW 36.70A.070(6)(b) only applies specifically to the financial commitment to complete transportation improvements or strategies. Nonetheless, the purpose of these improvements or strategies is to prevent an adopted level of service from dropping below a set level, which can only occur if the totality of traffic from all sources is adequately predicted.
122. Section 4 of Ordinance 14375 requires the concurrency traffic model to be updated annually, which process “shall include the most recently adopted road CIP, updated traffic volumes, and updated information regarding issuance of concurrency certificates, development approvals and development activity.” The language requiring current information on concurrency certificates and development approvals and activity would seem to be broad enough to include relevant permitting and concurrency data from adjacent counties. That assumption is contradicted, however, by the definitions of “development” and “development approval” carried over from section 8 of Ordinance 14050. These definitions make clear that the development approval information required for the annual update is limited to King County data. Thus whether the TCM group’s decision to exclude Snohomish County data conforms to good modeling practice or not, it does not violate applicable ordinance requirements.
123. Under the arbitrary and capricious standard, a reviewing body need not agree with an agency action but merely investigates whether some sort of rationally supportable decision was in fact made. With respect to the Snohomish County data for the years 1999 through 2001 and their exclusion by the TCM group from the 2002A concurrency model, the record demonstrates that

the TCM group obtained the Snohomish County data, understood the desirability of including it in the 2002A model update, but concluded that the delay and effort required to accomplish this action exceeded its immediate value in light of the apparent absence of any remarkable or unique quantitative characteristics within the new data overall. The County's TFDm group did not agree with this decision, and it is clear that it could have resulted in some decrease in modeled background traffic volumes on Novelty Hill Road and thus improved the chances of the Redmond Ridge East concurrency applications receiving an acceptable TAM score. Even so, it was a rationally derived action consistent with applicable ordinance requirements and was not arbitrary and capricious.

124. A more fundamentally important set of issues arises from the admitted errors in the 1998 traffic counts used by the TCM group to validate its link adjustments within the 2002A concurrency model. Base-year traffic counts provide the model's principal contact with reality, and the ability of the model to generate traffic volumes that closely replicate base-year ground counts constitutes the essential mechanism for assuring that the model is generating reliable results. Section 4A of Ordinance 14375 mandates that the Road Services Division employ a model calibration and validation process that conforms to accepted national standards:

“The traffic model shall conform to the guidelines and procedures described by the Federal Highway Administration in its publication entitled Calibration and Adjustment of System Planning Models dated December 1990 or its successor. Each update of the traffic model shall be used to estimate a new table of estimated vehicle trips per monitored zones.”

125. The December 1990 FHWA document appears in the record as Exhibit 166. The document's abstract describes its purpose as providing “procedures for calibrating and adjusting system wide transportation models so they replicate existing ground counts and can be used for forecasting.” The introductory section of the document describes calibration as the process for adjusting the overall model parameters and validation as “running the calibrated models with current socioeconomic data and comparing the simulated link volumes with ground counts.” Simulated link volumes are compared with ground counts and if significant differences appear “key model parameters are modified until the model replicates ground counts with an acceptable degree of accuracy.”
126. The FHWA document also contains a warning against making radical model adjustments to force conformity between simulated volumes and actual traffic counts:

“If the only way the model will replicate ground counts is by using unusual parameters, then the entire process should be checked, including the validity of the ground counts and the socioeconomic data.” (Exhibit 166, page 1)

Near the end of the document the FHWA provides some rule-of-thumb measurements for determining when acceptable limits on a model output's deviation from traffic counts have been exceeded based on a roadway's functional classification. Since the reliability of traffic counts increases on larger volume roads, the acceptable deviation for a freeway is only 7 percent maximum, whereas on local roads the deviation can be as much as 25 percent. The FHWA describes the test as follows:

“The percent error by functional classification is the total assigned traffic volumes divided by the total counted traffic volumes (ground counts) for all links that have counted volumes, disaggregated by functional classification.” (Exhibit 166, page 35)

For a principal arterial the suggested error limit is less than 10 percent and for minor arterials, less than 15 percent. These functional classification error limits are cited with approval by DKS Associates in its review of the County’s traffic model. (Exhibit 167, page 38) For purposes of our discussion of maximum percent error limits, in 2002 both Novelty Hill Road and Union Hill Road were designated minor arterials, but based on volume levels and capacity assignments the Department has consistently treated Novelty Hill Road functionally as a principal arterial.

127. At the March 3, 2005, hearing the TCM group’s principal model operator, Aaron Grimes, described the validation process that had been performed for the concurrency model to make link adjustments:

“Internally our model adjusted in the difference between the ground counts and our base-year model run.

The Examiner: Could you expand on that? That’s a validation process?

The witness: That is part of a validation process. And for our 36 monitored corridors, we collect ground counts for the base year, which is 1998. We run a base-year assignment and take the difference between that assignment and the ground counts, and that’s our value adjustment that we use in the TAM calculation....

“That means when we validate the base year, that’s a look at ground counts relative to a base-year model assignment. And we’re looking to see what is the difference between that or the percent difference between what is actually on the roads and what the model is assigning to the roads....

Q: By length or by corridor?

A: By length, and we do it for every monitored corridor. So for every monitored corridor, for every length in that corridor segment, we have a ground count associated with it and we have an adjustment.” (March 3, 2005, transcript, pages 370-372)

128. Questions concerning the accuracy of the 1998 traffic counts used by the TCM group arose in the context of Mr. Grimes’ description of the link adjustments made for Novelty Hill Road, which showed the PM peak hour volumes generated by the traffic model being substantially revised downward within the link adjustment process in order to conform to the base-year traffic counts that the TCM group was employing. This downward adjustment appeared to be in direct conflict with an email sent by John Shively, a senior transportation planner, to Richard Warren, the supervisor of the TCM group, on March 10, 2000. Mr. Shively was working on assessing whether a supplemental EIS would be required for the Redmond Ridge South preliminary plat

application and had encountered some disturbing data. The following are pertinent portions of this email:

“The County Executive has expressed...a concern over the traffic increase experienced on Novelty Hill Road, and what it means when the UPD traffic is realized....

“The Redmond Ridge EIS contains 2005 background traffic forecasts without the UPDs in. These forecasts in some areas, including Novelty Hill Road, are exceeded by the 1998 traffic counts. This is alarming because it provides some credibility concerns regarding the EIS forecasts...” (Exhibit 46)

129. The following exchange occurred during the testimony of Mr. Grimes on March 3, 2005, in an attempt to understand how the TCM group could be performing major downward adjustments of Novelty Hill Road links based on 1998 traffic counts when those same traffic counts were being characterized by Mr. Shively as alarmingly high:

“Q: Are you adjusting the model to make it match actual reality?

A: We’re actually adjusting the assignments to match reality.

Q: So the reality of the actual counts is what controls in your modeling process?

A: Right.

The Examiner: I think maybe stepping back another step removed, did you actually look at the counts that justified this adjustment?

The witness: Yes, yes. I programmed the counts into the entire model for the corridor.

The Examiner: Are those counts available to us?

The witness: The counts are embedded in the model. Yes, they are available....

The Examiner: It might be nice to have that. It seems to me we’re hearing two different things from different sides of the issue. On the one hand, we’re hearing from Mr. Shively...these counts on Novelty Hill Road are higher than we anticipated, and now you’re telling me you reduced the model distribution by 225, because in reality, the counts are lower. It seems to me it can’t be both ways.

Q: Mr. Grimes, did you reduce any actual traffic count?

A: No.

The Examiner: I am saying we may have traffic count data that is inconsistent.”
(March 3, 2005 transcript, pages 386 and 387)

130. Exhibit 202 represents the 1998 traffic counts used by the TCM group to validate the link adjustments made within the 2002A concurrency model. Once this data was produced and distributed to the parties, it soon became evident that many of the traffic counts used by the TCM group in its validation process were incorrect. Apparently certain 36-hour running traffic counts were incorrectly averaged when they were converted to a single PM peak hour figure, and these incorrect averages were substantially lower than they should have been. For example, in file no. 6058, which is a segment of Novelty Hill Road west of 208th Avenue Northeast, for the three-day count beginning July 28, 1998, the afternoon peak figures recorded were 895 and 913 on the 28th, 949 and 934 on the 29th, and 916 and 933 on the 30th. Yet the average PM peak is reported to be 748, which is 175 trips less than the average of the six numbers.
131. Exhibit 267 contains the Road Services Division’s corrections to the traffic counts erroneously averaged in Exhibit 202. This exhibit identifies 14 upward count corrections. In addition, the underlying documentation in Exhibit 247 would support at least another 8 mostly smaller corrections that the Division did not choose to make. Of the 14 corrections made by the Division, 8 were on Avondale Road, 4 on Novelty Hill Road and 2 on Union Hill Road. Three of the four Novelty Hill Road corrections were of a magnitude exceeding 20 percent. These included two upward adjustments within file 6058 in the peak direction, one west of 208th Avenue Northeast and the other to its east, each approximately 22 percent. In addition, an upward correction was made in the eastbound peak direction for file 6016 on Novelty Hill west of Snoqualmie Valley Road of about 32 percent.
132. The link adjustments made by the TCM group to the 2002A concurrency model based on the erroneous 1998 traffic counts are contained in Exhibits 37 and 55. Looking at the eastbound PM peak direction movements, a pattern of major downward link adjustments can be identified along a route that runs east along Union Hill Road from the Redmond city limits to 208th Avenue Northeast, then north to Novelty Road and east again on Novelty Hill Road toward the UPDs. The chain of link adjustments encountered along this route substantially exceeds the FHWA error limits stated in Exhibit 166. For the three links on Union Hill Road west of 208th Avenue Northeast, two of the adjustments deviate from the presumed 1998 traffic counts by more than 30 percent, and the third by 22 percent. For the link on Novelty Hill Road just east of 208th Avenue Northeast the deviation is nearly 15 percent. In all four instances the downward link adjustments approximate the magnitude that the 1998 trip count averages were erroneously understated in Exhibit 202.
133. The process by which these erroneous traffic counts came to be incorporated into the TCM model itself offers a textbook lesson in administrative dysfunctionality. The raw traffic count data used by the traffic modelers is generated within another office of the Road Services Division. When the TFDM group first requested this traffic count data in order to calibrate the base model, it readily identified the averaging errors and corrected them within the calibration process. By 2002 when the TCM group was doing its link adjustment work, relations between it and the TFDM group had degenerated to the point where the two units were not speaking to one another. Thus, rather than requesting the 1998 counts from TFDM and thereby receiving the corrected data, the TCM group went back to the original source and obtained the erroneously

averaged counts. Thus the TCM group not only took a longer and more laborious route to get the data, but they also unknowingly received data that had already been identified as seriously flawed.

134. In addition to the mistakes admitted to and corrected within Exhibit 267, the record contains a suggestion that the identified traffic count errors might only be the tip of the iceberg. On April 11, 2005, under cross examination by FOTL's attorney Mr. Bricklin, Mr. Grimes disclosed that he had received additional updated 1998 data from other jurisdictions that he had undertaken to program into the link adjustment process for his final 2005 model reruns. He admitted reluctantly that when this data was added to the model, the new link adjustments resulted in Redmond Ridge East generating a failing critical link score on the rerun concurrency test. Thereafter, Mr. Grimes was instructed by his supervisor, Mr. Warren, to take this additional data out, after which the rerun outputs contained in Exhibits 250 and 252 were generated with passing scores for Redmond Ridge East. In explaining why these other 1998 counts were removed from the model, Mr. Grimes offered the following explanations:

“I was informed by Richard, my supervisor, we're only putting in counts for the monitored corridors. We're not changing the counts. We're not adding counts in the City of Redmond. We're not adding counts on corridors extending past monitored corridors. Because I had input counts along the Woodinville/Duvall Road. He said, take it out, it's inappropriate....

“It was supposed to be consistent with the original ones we performed. We wouldn't introduce any more new data, in terms of count adjustment, outside of our monitored corridors....

Q: What was the data that you put in, that you then took out?

A: PM peak hour traffic counts in Redmond; counts in Woodinville; and revised state counts.” (April 11, 2005, transcript, pages 174 to 177)

135. At least two things are perplexing about this explanation. First, the County's monitored corridors closest to the Novelty Hill area in almost every case include segments that lie within other jurisdictions. For example, monitored corridor no. 4, the Woodinville/Duvall Road between Avondale and SR 522, lies within the City of Woodinville for more than half of its length. Monitored corridor no. 5, Northeast 124th/128th Street between I-405 and Avondale, is partly in Kirkland and Redmond. The southern portion of monitored corridor no. 6, which is Avondale Road between Woodinville/Duvall Road and SR 520, lies entirely in Redmond south of Northeast 116th Street. The western end of monitored corridor no. 8, Novelty Hill Road at its intersection with Avondale, is also within Redmond. The heavily congested westernmost section of monitored corridor no. 9, Union Hill Road, lies in Redmond, and monitored corridor no. 10, SR 202, is a state facility. To suggest that 1998 data from Redmond, Woodinville and the state should be excluded because it does not affect monitored corridors appears to be a misstatement. Moreover, Mr. Grimes' March 3, 2005, testimony was to the effect that link adjustments were performed exclusively for monitored corridors, thus implying that only the monitored corridor data from other jurisdictions would qualify as external data subject to inclusion into the model.

136. In applying the arbitrary and capricious standard, the facts subject to review are the actions of the Road Services Division collectively in performing the concurrency test. The internal disputes between the TCM and the TFDM groups, and their respective efforts to assign blame to the other group for any errors committed, are perhaps of overriding importance to the participants themselves. But they are of no consequence to this proceeding. It is the actions of the Division as a whole that must be evaluated. With respect to the 1998 traffic count data, we see errors produced by one unit of the Division and forwarded to the TFDM group for the base model calibration process, which were corrected by TFDM for its procedures but not communicated to TCM. TCM avoided availing itself of TFDM's expertise on the 1998 traffic counts and went back to the original source, obtained the erroneous data and used it in its tainted form. TCM's use of erroneous 1998 traffic count data forced downward link adjustments well in excess of the error limits specified in Exhibit 166, the FHWA calibration document incorporated as a standard by County code. This document states explicitly that when unacceptably large deviations from traffic counts are encountered the entire process should be reconsidered, including the validity of the traffic counts. Indeed, since the 1998 base model had just been successfully calibrated by the TFDM group, the mere discovery of link adjustments of this magnitude should have been recognized as nearly incontrovertible evidence of a fundamental data error.

The TCM group ignored these many red flags and made unexamined link adjustments in excess of accepted national parameters. In so doing they also ignored a clear warning from a member of the Division's planning staff that 1998 background counts for Novelty Hill Road had been surprisingly high. These were willful and unreasoning actions taken without regard to attending facts and circumstances in violation of the arbitrary and capricious standard.

137. A third set of issues concerns the TCM group's coding within the concurrency traffic model of a centroid connector between Redmond Ridge East zone 372 and Redmond Ridge zone 370 via node 5930. A related issue involves the question of how much RRE traffic should be assigned as traveling this route between zones 370 and 372. It is undisputed that the 1998 base model produced by the TFDM group only programmed centroid connectors from zones 370 and 372 each separately to Novelty Hill Road. There was no direct east/west connector between the two zone centroids. It is also clear that the TFDM group's projected year 2020 base network included modifications showing the 370 to 372 centroid connector at issue and as well the new UPD route south from Novelty Hill Road through Redmond Ridge to Union Hill Road and SR 202. These modifications contained in the 2020 base network were incorporated by the TCM group into its 2002A concurrency model. Mr. Grimes testified that when he incorporated those changes into the 2002A model, he was aware of the UPD developments in Bear Creek, saw that the new UPD corridors had been coded into the 2020 model and relied upon that coding for the TCM 2002A modifications.
138. As stated above, section 4 of Ordinance 14375 requires the concurrency traffic model to conform to the guidelines and procedures set forth in the FHWA December 1990 publication admitted to the record as Exhibit 166. This standard reference is repeated within the definition for a "traffic model" stated within Ordinance 14050, section 8, which means "the computer program and data used to forecast traffic volumes...calibrated to Federal Highway Administration (FHWA) standards." Section 2.1 of the FHWA document describes centroid connectors and how their location and number regulates the assignment of traffic to the roadway network. The following guidance is provided for the creation of centroid connectors within a traffic model:

“Connectors should represent, as closely as possible, the local streets within the zone and reasonable access points to the collectors/arterials in the system. A centroid connector should not be added to either a base year or forecast year network if access to a given link is blocked...That is, centroid connectors should represent, as closely as possible, the local streets within the zone and reasonable access points to collectors/arterials in the system.” (Exhibit 166, page 6)

139. Other technical documents in the record support and expand upon the FHWA guidelines. The DKS Associates model development document states that centroid connectors “fairly represent local street traffic loadings onto major roadways.” (Exhibit 167, page 10) A paper prepared by Dr. Chen and Hossein Barahimi for a 1999 EMME2 users conference states that “centroids should be located at the major trip ends, such as primary residential area or employment area of each zone” and “should be located to represent the local access points.” (Exhibit 243, page 4) A validation manual prepared in 1997 for the FHWA (Exhibit 255) contains the following excerpted observations:

“Ideally, connectors will be attached at the points at which local streets or driveways enter the coded highway network....

“The construction and plotting of paths from one zone (or node) to other zones (or nodes) provides the capability to discover illogical travel paths....

“One of the most severe (and common) network connectivity problems is when a zone centroid is not connected to the highway network....Unconnected zones will either cause an error detected by the software, or else the matrix will contain a row of extremely large impedances...for that zone.”

140. These technical references agree that the primary function of centroid connectors within a traffic model is to realistically load traffic onto the arterial network in order to create reasonable traffic assignments. Obviously, where a road system has already been constructed the centroid connectors should be consistent with the existing facility network. Where the roadway system has not been fully constructed, centroid connectors should not be based on illogical or impossible assumptions but should provide for arterial loading in a credible manner. As described by the Division’s consultant Mr. Naguchi, “A centroid connector is a reasonable representation of how a trip is coming out of the zone, is getting onto arterial streets.” (April 11, 2005, transcript, page 196)
141. In 2002 when the TCM concurrency map was constructed and the Redmond Ridge East concurrency certificates issued, substantial residential development had already occurred at Redmond Ridge, the back door arterial connection south to Union Hill Road and SR 202 had been constructed, and some infrastructure for the future business park had been installed. In addition, as pointed out by Quadrant, the Redmond Ridge master plat recorded in 1999 reserved a tract connecting Redmond Ridge with Redmond Ridge East “for future development, access, drainage and utilities.” (Exhibit 257) The new north/south arterial connection constructed within Redmond Ridge with a proposed business park nearby created both an important employment attraction and a new arterial network linkage. These development actions warranted consideration of a new centroid connector within the model for more direct and efficient

assignment of traffic between zones 370 and 372. Since the FHWA reference document does not strictly require the existence of a constructed roadway but simply a reasonable access point, the critical question is whether the intervening sensitive areas tract that the centroid connector would need to cross must be regarded as a blockage prohibiting centroid connector coding in this location. The County sensitive areas regulations in effect in 2001 would have required mitigation for a wetland and wildlife habitat corridor crossing, but such crossing would not have been categorically prohibited. Accordingly, the centroid link crossing in 2002 would have been regarded as constrained but not impossible.

142. FOTL has argued that the definitions applicable to Ordinance 14375 in effect in 2002 for “committed network” and “transportation facilities” preclude programming a centroid connector between zones 370 and 372 unless such roadway either was funded in the 2001 adopted CIP or a voluntary private financial commitment had been secured for its construction. Since neither condition existed at that time, FOTL argues that coding this centroid connector was unauthorized under the ordinance.

Leaving aside the question of whether the 370 to 372 centroid connector would necessarily have qualified for classification as an arterial and thus for inclusion in the definition of “transportation facilities” subject to the committed network requirement, the more fundamental question is whether these definitions in fact apply to the traffic modeling process.

143. A review of Ordinance 14375 discloses that these definitions do not in fact apply to the modeling process. Ordinance definitions are not self-actualizing but only come into operation when the defined terms are used within a substantive regulatory requirement. The update and use of the traffic model is described in section 4 of Ordinance 14375. No mention of either the committed network or transportation facilities is found in this section. Rather, as we have seen, the key reference is to the FHWA manual, which in turn does not contain a strict facility construction requirement but simply the designation of reasonable access points.

The concurrency testing procedure is essentially a two-step process. First, the traffic model is constructed and traffic volumes are forecast. The second step is for the modeled volumes to be run through the committed network to derive a TAM calculation for the zone or project relative to an adopted level of service. As provided in section 1 of the ordinance, it is only at step two when the actual concurrency test is run and the TAM calculation performed that the committed network comes into play. Step one, the creation of the traffic model, does not require strict reliance on the committed network.

144. The Road Services Division’s coding of a centroid connector within the 2002A concurrency traffic model between zones 370 and 372 was a reasonable modeling action. The creation of a new north/south arterial connection within Redmond Ridge plus the residential and employment attractions within Redmond Ridge itself justified coding a centroid connector between zones 370 and 372. This coding was done by the TFDm group for its 2020 forecast, and the TCM group reasonably relied upon this analysis for its 2002A concurrency network. Such action was consistent with ordinance requirements and applicable national standards, was not willful and unreasoning and in disregard of relevant facts, and was not arbitrary and capricious.

145. The traffic study for the Redmond Ridge East DEIS contains the following description of the traffic distribution for the RRE proposal:

“Approximately 20 percent of the Redmond Ridge East traffic during the PM peak hour would connect within the UPDs, including the recreation complex, Redmond Ridge, and Trilogy....Approximately 13 percent of the Redmond Ridge East residential traffic would connect with the Redmond Ridge business park....

“...An estimated 47 percent of the Redmond Ridge East residential traffic would use Novelty Hill Road west of the Redmond Ridge UPD.” (Exhibit 4d, Appendix H, pages 121 and 122)

These figures are generally consistent with the trip distribution for Redmond Ridge employed in the Northridge DEIS traffic analysis, which projected 18 percent of UPD business park and retail traffic combined connecting internally with Northridge residential uses (Exhibit 143d, Appendix L, page 52). Based on the traffic analysis, the Northridge DEIS employment discussion states that 8 percent of the UPD’s employees are expected to reside onsite (Exhibit 143d, Appendix I, page I-12).

146. The last major issue raised by the FOTL concurrency challenge is that the TCM model vastly overstated the quantity of project trips internally distributed to the Redmond Ridge business park and therefore improperly removed such trips from Novelty Hill Road and other roadways within the external arterial network. This is a serious criticism because the consequences of such a distribution are not merely localized aberrations in volume assignments, but rather that the overall external network loading was deficient. The potential magnitude of this problem can be easily appreciated by simply comparing the Redmond Ridge EIS distribution with the zone 372 distribution within the 2002A model run. Where the EIS distribution from Redmond Ridge East to the Redmond Ridge business park was only 13 percent, the zone 372 concurrency distribution was 48.5 percent. Further, looking to a key location on the external network, the EIS distributed 47 percent of project traffic to Novelty Hill Road just west of the Redmond Ridge UPD boundary whereas at this same location the concurrency distribution was little more than 26 percent. In other words, the trip distribution within the concurrency model for the Redmond Ridge business park was nearly four times greater than the EIS level, resulting in a nearly 50 percent lowering of the project trip distribution to Novelty Hill Road.
147. The testimony of Aaron Grimes was that the Redmond Ridge business park was programmed into the concurrency model as an employment attraction based on a development of 1.6 million square feet to be constructed within three or four years of adoption of the 2002A model. In point of fact, as of early 2005 no construction of the business park had taken place although two building permits are currently under review. Further, the 1.6 million square feet of business park use was based on a concurrency certificate issued to Quadrant in the mid-90s. By the time the Northridge FEIS was published in January 1996 the size of the business park had been reduced to 1.2 million feet, which was the amount approved under the Northridge UPD/FCC permits. Thus the 1.6 million square feet of business park used within the 2002A concurrency model was 33 percent greater than the ultimate proposal approved by the County in early 1997.

148. Perhaps the most bizarre proposition put forward within a hearing abounding with dubious assertions was the testimony by Mr. Grimes that the TCM group was legally obligated to code the Redmond Ridge business park at 1.6 million feet in 2002 even though 6 years earlier the proposal had been revised to 1.2 million feet and was approved within the UPD/FCC permits at that level. This testimony defies applicable code provisions, abundant documentation as to how these code provisions are applied by the Department and plain common sense.
149. Section 4A of Ordinance 14375 requires the concurrency traffic model to be updated annually pursuant to the following procedures: “The update process shall include the most recently adopted roads CIP, updated traffic volumes, and updated information regarding issuance of concurrency certificates, development approvals and development activity.” In addition, section 12 of Ordinance 14050 provides that the “determination of concurrency shall be final at the time of development approval” and that a concurrency certificate “expires if the development permit for which the concurrency is reserved is not applied for within the 365 days” from its date of issuance. As the various emails and meeting summaries attached to Exhibit 46 demonstrate, Road Services Division staff was fully aware that applicants often apply for the maximum concurrency approval feasible and later end up with a project that is substantially smaller. If the actual proposal is reduced below the concurrency authorization and so remains for more than a year after concurrency certificate issuance, the excess concurrency authorization is forfeited, a fact which is to be reflected in the annual concurrency update.

The Redmond Ridge East concurrency certificates are perfect examples of how this process works. The certificate for the sports complex was issued for 12 fields and the proposal is now for a maximum of 8, while the residential certificate was issued for 1325 units and the proposal is now capped at 800 units. In both instances, the ordinance requires the unused portion of the concurrency approvals to be forfeited after 365 days and the annual concurrency update to reflect such change. The assertion that the 1.6 million square foot concurrency allocation for the Redmond Ridge business park lives on forever despite a 1997 approval at 1.2 million square feet is indefensible nonsense.

150. If one reduces the 48.5 percent of Redmond Ridge East traffic that is internalized to the Redmond Ridge business park proportionately to the 1.2 million square foot business park actually authorized, the internalization figure drops to about 36 percent, which is still more than 2½ times the 13 percent EIS figure but somewhat less egregiously excessive. The question then arises whether this figure needs to be further reduced in turn, either based on a more realistic characterization of the business park attraction or to reflect the fact that business park buildout has not yet begun to occur. Certainly a case can be made that the Redmond Ridge business park, due to its character and location, is a unique attraction and under the FHWA calibration document required to be treated as a special generator with its own specifically calculated trip rate. The DKS Associates guidelines for development of the King County travel model lend support to this approach: “Some facilities are both unique in their trip generating character, and large in their size, and should be accounted for separately as ‘special generators.’” (Exhibit 167, page 13).

Although the character of the business park as a special generator is nowhere discussed in the UPD review literature, the Northridge DEIS notes that many of the jobs generated by the business park may be at a pay scale that would not support residing within the UPDs. (Exhibit

143d, Appendix I, page 12) A reasonable assumption might be that a majority of the business park jobs would be realistic options only for the 30 percent of UPD residents who will live in affordable housing units. Even though Mr. Toedtli described the 13 percent internalization EIS figure as a conservative estimate, a defensible but more generous business park internalization rate surely would not exceed 20 percent.

151. The Northridge UPD permit was issued in 1997 based on a 15-year project buildout. With respect to the business park portion of the UPD, buildout in this context really only means platting the parcels and installing the roads and the utilities. Actual construction and occupancy of the business park enterprises may or may not occur within 15 years but rather will happen whenever the market supports such activity. While it is one thing to say that the County's concurrency process needs to reserve future road capacity for buildout of the business park, the reservation of such capacity has nothing at all to do with evaluating whether the trip distribution for Redmond Ridge East is reasonable. There is no logical connection between reserving capacity on Novelty Hill Road for business park traffic and distributing Redmond Ridge East traffic internally to nonexistent commercial attractions. Moreover, the updating procedures for the concurrency model stated in section 4A of Ordinance 14375 require utilizing current information regarding issuance of concurrency certificates, development approvals and development activity.
152. The primary gauge for determining the actual status of development activity is the County Assessor's records, which reflect on an annual basis construction on legal parcels of record. In view of the 15-year buildout authorized by the UPD approval and the lack of any actual construction as of 2002 on business park parcels as shown in the County Assessor's records, one has to question whether Mr. Grimes' categorical assumption that the entire business park at Redmond Ridge would be built out in three or four years was a reasonable and justified modeling premise. It must be acknowledged that with 1300 concurrency zones the amount of permitting and construction information that can be expected to be programmed into the model in any year for any average zone may not be very great. But zones 370 and 372 are not average zones. The traffic and concurrency issues surrounding the Novelty Hill UPD developments collectively have been a major focus of County policy debates consistently over the past ten years, replete with audit reports, questions over the scope and timing of the Novelty Hill Road CIP, and the direct participation of the County's top executive personnel in the decision-making process. What is truly marvelous about the picture that emerges from the Department's testimony is how much effort it has put into justifying its expansive capacity assumptions for Novelty Hill Road and how little time it claims to have put into nearly every other aspect of the UPD concurrency issues.
153. Be this as it may, at a minimum the coding of the Redmond Ridge business park at 1.6 million square feet in the 2002A concurrency model was an egregious modeling error because the County ordinance requires the certificate figure to be corrected in the annual update process. Further, in light of a 13 percent internalization rate for residential traffic to the business park employed within the Northridge and Redmond Ridge East EISs, use within the concurrency model of a vastly higher internalization rate at least requires some supporting methodology if it is to be considered reasonable. Failure to correct the business park floor area to 1.2 million square feet was an error of law, and failure to engage in any analytical process in support of a distribution of internal RRE trips to the business park vastly in excess of EIS assumptions was willful and unreasoning behavior taken without regard to attending facts or circumstances.

Individually and collectively they constitute arbitrary and capricious action on the part of the Division.

H. ROADS AND TRAFFIC

154. The proposed actions defined for Redmond Ridge East and analyzed within the FEIS did not include the connector road alternatives identified by staff as potential routes west into Redmond Ridge. The traffic analysis for RRE contained in the FEIS focuses upon Quadrant's preferred proposal with the Novelty Hill CIP widening project removed from the available arterial network. The effect of the CIP removal on trip distribution is to reduce the number of project trips assigned to Novelty Hill Road from 47 percent with the CIP to 42 percent without, and to reassign most of those trips north through the Trilogy UPD to the Northeast 133rd Street corridor. In like manner, removal of the CIP from the arterial network results in background traffic originating east of the UPDs shifting north in substantial numbers from Novelty Hill Road to Northeast Woodinville-Duvall Road before looping south on Avondale Road. Thus the 2010 horizon year traffic projections for Avondale are about the same with or without the CIP south of its Novelty Hill Road intersection but are substantially higher north of Novelty Hill Road.
155. The historic centrality of the Novelty Hill Road/Avondale Road corridor in public planning for the movement of traffic to and from the UPD projects has been discussed previously. The primary trigger within both the Northridge and Blakely Ridge approvals for requiring major transportation improvements by the UPDs was based on traffic counts on Novelty Hill Road east of 208th Avenue Northeast reaching 1350 vehicles per hour in the PM peak direction. Comprehensive Plan Policy CP-112 for the Bear Creek area identifies the 1989 Avondale arterial corridor study recommendations as the basis for both Redmond and County mitigation requirements. Because the 1989 study deals with the arterial corridor consisting of both Avondale and Novelty Hill Roads downstream from the UPD area, the statement within CP-112 that "mitigation shall preserve the operational integrity of the corridor and maintain existing local access" should be read as referring to Avondale and Novelty Hill Roads in combination.
156. For all planning purposes other than the analysis of traffic impacts from Redmond Ridge East, the County Department of Transportation regards the Novelty Hill corridor to be currently deficient. Exhibit 196, which is a statement of purpose and need taken from a 2003 pre-application package prepared for a combined local and federal funding proposal for the Novelty Hill Road CIP project, contains the following description by the Department of the present state of Novelty Hill Road:

"The existing road system with the NHR corridor is inadequate due to inefficient system capacity, traffic safety, social and economic demands, system linkage, and modal interrelationships....

"Increased transportation capacity along the Novelty Hill Road corridor is needed in order to accommodate both the existing traffic as well as future increases in traffic based on population and economic growth. The NHR corridor experienced a 48% increase in daily traffic volume in the five years between 1996 and 2001, and significant growth is projected to continue....The existing level of congestion and delay experienced by drivers makes apparent the need for

improvement. For example, the intersection at Avondale Road NE and NE Novelty Hill Road experiences backups of approximately one mile at peak hours....

“Portions of NHR have horizontal and vertical curves that do not meet current design standards; thus, improvements in road geometry are needed. Much of the existing alignment of NHR consists of a two-lane rural character roadway with shoulders and roadside ditches. There are six horizontal and two vertical curves, which do not meet current design standards and result in 27 intersections and driveways with inadequate stopping and entering sight distances.

“...Currently along portions of the roadway, pedestrians, bicyclists, and equestrians must use the existing narrow shoulders adjacent to the traffic lanes.”

157. The existing inadequacy of Novelty Hill Road has also been acknowledged by Quadrant within documents generated during the recent public debate as to whether the Novelty Hill Road project should be deleted entirely from the County’s CIP list. The following quotations are taken from a letter (Exhibit 216) sent by the president of Quadrant to a County Councilmember on April 9, 2004:

“If King County eliminates its CIP construction funding for Novelty Hill Road, Quadrant’s ability to complete its two already-approved Urban Planned Developments—Redmond Ridge and Trilogy at Redmond Ridge—could be significantly imperiled. Quadrant’s proposed Redmond Ridge East development, now under review by DDES, would also be at risk, since Novelty Hill Road must be widened to accommodate Redmond Ridge East traffic, as well.

“Failure to fund Novelty Hill Road construction would be contrary not only to the KCCP, but to the basic concept of the Growth Management Act itself—concentrate growth at higher densities in Urban areas, build the public infrastructure necessary to support those densities, and reduce growth pressure in Rural areas. Without further improvement of Novelty Hill Road, this second essential component of GMA will simply be ignored.”

Shortly thereafter, a revenue impact memorandum dated May 11, 2004, prepared for Quadrant by the Financial Consulting Solutions Group (Exhibit 217) reiterated the same points:

“King County recently announced that previously planned improvement to Novelty Hill Road would not be made due to the lack funding for County road projects. Without the road improvements, development of large portions of Redmond Ridge, Trilogy, and Redmond Ridge East will not be able to proceed in the future....

“Based on Quadrant’s and Trilogy’s current agreements with the County, further development of Redmond Ridge and Trilogy would be stopped in 2005 if the

future Novelty Hill Road improvements will not be completed. Quadrant's proposed development of Redmond Ridge East would also not proceed."

158. The DDES staff report and the FEIS provide a complete list of the level of service F conditions that are predicted to exist in the 2010 horizon year with the construction of Redmond Ridge East and in the absence of a constructed Novelty Hill Road CIP. There are 13 intersections on the list that will operate at level of service F in either the morning or afternoon peak hour, and in some occasions both, stretching along the Avondale/Novelty Hill corridor from the Union Hill Road intersection in Redmond upstream through the Eastridge Drive intersection proposed for Redmond Ridge East. In addition, Novelty Hill Road at 243rd Avenue Northeast east of the UPDs is predicted for a PM level of service F as are two intersections on Union Hill Road east of Avondale, the Northeast 133rd Street/218th Avenue Northeast intersection north of Trilogy, SR-202/236th Avenue Northeast to the south of the UPDs, and Northeast Aldercrest Drive/Redmond Ridge Drive Northeast south of the Redmond Ridge retail center. Of these projected level of service F intersections, the five that are located outside the Avondale/Novelty Hill Road corridor plus the Novelty Hill Road/243rd Avenue Northeast intersection east of the UPDs are all predicted to receive less than 20 percent of Redmond Ridge East peak hour traffic and therefore will fall below the Intersection Standards threshold for assessing a significant adverse environmental impact from the proposal. Nonetheless, it needs to be appreciated that these intersections are all component parts of an intensely congested arterial network serving the UPDs and that due to its large size RRE can put 170 trips into a level of service F intersection in the PM peak hour and still fall beneath the 20 percent IS threshold.
159. In addition to level of service conditions at area intersections, the FEIS and the staff report dwell at considerable length on RRE's contribution to safety and operational impacts at intersections and along corridor segments that result from the pervasive congestion encountered. The County's Intersection Standards speak to these issues primarily in terms of safety impacts and the staff and EIS discussions follow suit, but in reality these are mostly operational problems that have safety implications due to their severity. Typically these problems are the consequence of traffic queue lengths that either exceed the existing storage volume of turn lanes and block the through traffic flow, or simply extend so far upstream that they block intersections and prevent turning movements from side streets. The FEIS contains the following description:
- "Several locations were identified where the Synchro-calculated 95th percentile queues at intersections would exceed the available vehicle storage capacity (length of turn lane) by more than one or two car lengths. The 95th percentile queue length is the maximum distance that traffic queues are expected to extend during 95 percent of the time during the peak hours. The queues may be longer during the remaining 5 percent of the hour which would be approximately three minutes. Locations where the 95th percentile queue would exceed the available storage length (plus 50 feet) are potential locations where drivers may make maneuvers to avoid a standing queue and could be considered to reasonably result in a hazard to safety." (Exhibit 5c, Appendix E, page 68)
160. The intersections and road segments most critically impacted by chronic peak hour congestion and the resulting excessive queue lengths are Avondale Road/Union Hill Road, Avondale Road/Novelty Hill Road, and the roadway segments that connect and lead into them, all within

the City of Redmond. The traffic study done for the DEIS provided the following description of the current situation along this corridor:

“Observations show that, on occasion, westbound queues along Novelty Hill Road may be as long as one mile or more, with over ten minutes of delay in queue. Observations also show that, at times, queues from the downstream intersections: Avondale Road/95th Street..., Avondale Road/Northeast Union Hill Road...extend through the Avondale Road/Novelty Hill Road intersection causing it to be blocked. When this occurs, the green time allotted to both the southbound and westbound left movements are underutilized, resulting in poor intersection operations and extended queue lengths....During the PM peak hour queuing in the northbound direction can at times extend through the NE 95th Street intersection.” (Exhibit 4d, Appendix H, page 33)

“**Avondale Road/Union Hill Road...**This intersection operates poorly during both the AM (LOS F) and PM (LOS F) peak hours. Delay experienced at this intersection can be attributed to the high traffic volumes on Avondale Road going to/coming from SR-520, particularly in the southbound direction during the AM peak hour, and in the northbound direction in the PM peak hour. During the AM peak, southbound drivers were observed to bottleneck at the merge just after the intersection delaying subsequent southbound drivers and reducing the capacity of the intersection. Southbound queues were observed to extend north to Novelty Hill Road on some signal cycles.” (Exhibit 4d, Appendix H, page 34 and 35)

These observations are consistent with the volume/capacity ratios modeled for the Avondale corridor between Union Hill and Novelty Hill Roads, which show V/C ratio projections as high as 1.6. At a V/C ratio of 1.0 a roadway is considered to be operating at its capacity, and under the County’s concurrency program a monitored link with a V/C ratio in excess of 1.1 is deemed out of compliance.

161. Operational problems attributable to excessive queue lengths also exist at locations outside the Redmond portion of the Avondale/Novelty Hill Road corridor. At Novelty Hill Road/208th Avenue Northeast queues for the westbound left turn movement exceed presently available storage, with the problem being particularly acute in the AM peak hour. At the eastern terminus of Novelty Hill Road, queue lengths are also a problem at the West Snoqualmie Valley Road intersection. Within the section of Novelty Hill Road that lies adjacent to the UPD properties, after the development of Redmond Ridge East all five of the existing or planned UPD intersections would experience queuing and blockage problems.

Starting with the westernmost UPD intersection at Cedar Park Crescent, with development of RRE and without further mitigation AM peak hour westbound traffic on Novelty Hill Road will back up to block left turns from the Redmond Ridge retail center and right turns from 224th Avenue Northeast north of Novelty Hill Road. In the PM peak hour, the eastbound traffic at this intersection will back up to block 218th Avenue Northeast. Finally, the northbound traffic on Cedar Park Crescent itself will queue through the intersection with Marketplace Drive. At the Novelty Hill Road/Redmond Ridge Drive intersection in the AM peak hour, the queue for the westbound left turn lane would exceed its capacity by about 500 feet and would block through

traffic. A similar condition would occur in the PM peak hour for the eastbound right turn lane. Further east, the southbound left turn movement from Trilogy Parkway to Novelty Hill Road would exceed its capacity in the PM peak hour and block other southbound movements. And within Redmond Ridge East itself, a single northbound left turn lane on proposed Eastridge Drive would create a queue that would block the access to the Village retail complex and would require a second westbound left turn lane. In addition, in the PM peak hour eastbound traffic on Novelty Hill Road stopped at Eastridge will back up through the Trilogy Parkway intersection unless lane modifications are implemented.

162. The permit conditions proposed by DDES staff can alleviate or at least neutralize most of those queuing and blockage problems which are primarily of a localized nature. Thus the proposed staff conditions provide for extending the westbound left turn lane at Novelty Hill Road/208th Avenue Northeast, prohibiting left turn out traffic from the Redmond Ridge retail complex and requiring such traffic to employ one of the signalized intersections on either side of the retail center, placing signage against intersection blockage at the 224th Avenue Northeast access to Novelty Hill Road, reconfiguring the southbound left turn lane on Trilogy Parkway, and requiring a second northbound left turn lane on Eastridge Drive. All of these strategies should work well enough except for the signage at the Novelty Hill Road/224th Avenue Northeast intersection, which due to its proximity to Cedar Park Crescent is unlikely to be effective.
163. While most of the queuing problems identified within the staff and environmental reviews are fundamentally operational issues, there are also some genuine safety concerns disclosed by the accident data. The updated information contained within the FEIS shows Novelty Hill Road from 243rd Avenue Northeast to Snoqualmie Valley Road having an accident rate of 1.69 accidents per million vehicle miles compared with a countywide average of 0.80/mvm on minor arterials generally. The problems here appear to be combination of poor level of service, steep grades, a winding roadway and deficient sight distances. The staff conditions propose that Redmond Ridge East construct a package of turn and refuge lanes, install widened shoulders and do some clearing and regrading to improve operational safety.
164. Elevated accident data have also been reported along most of Avondale Road between Union Hill Road and Novelty Hill Road, with the segment north of Northeast 95th Street reporting a particularly high reading of 2.14/mvm. The Redmond Ridge East FEIS identifies the project's contribution to safety and operational problems along this stretch of roadway to be an unmitigated significant adverse environmental impact of the Quadrant proposal, a conclusion that is supported by the record. At five lanes Avondale Road in this portion of the corridor has been constructed to its full design width, and the City of Redmond considers any further widening of the roadway to be unacceptable in terms of its impacts to existing residential development, pedestrian and bicycle use, and community character. As to directly improving the operation of this corridor, the only project the City is contemplating presently involves better coordination of signal phasing among the intersections in order to squeeze out a slight increase in operational efficiency. In addition, the City has done some preliminary thinking about the possibility of expanding or developing other parallel north/south arterial corridors in order to divert traffic away from Avondale, but no concrete plans exist for such projects and no serious attempt has been made to quantify the mitigational effects of such concepts on the Avondale corridor. The County's revised EIS process for the Novelty Hill CIP is investigating similar strategies, including the creation of new or expanded north/south corridors east of Avondale along 208th

Avenue Northeast or 196th Avenue Northeast. In these instances also, no commitment has been made to a specific alternative, and the potential benefits of such alternatives have yet to be quantified.

165. The Avondale/Union Hill Road intersection in Redmond currently operates at level of service F and is projected to remain at a deep F in 2010 under all scenarios. The modeling done for the FEIS shows the expected average intersection delay to be about 280 seconds with or without the Redmond Ridge East project. The City has a funded improvement project for this intersection that would add a westbound right turn lane and thus allow two dedicated left turn lanes onto the SR-520 ramps. The traffic modeling suggests that with this improvement the overall intersection delay could be reduced below 200 seconds. At the time of the DEIS this improvement was considered fully funded and therefore not a candidate for contributions from developments like Redmond Ridge East. Afterward it was temporarily dropped from the City's committed list, which allowed Quadrant to offer to make a contribution to its construction and stake a claim to mitigation for its additional traffic impacts at the intersection.

After Redmond filed its EIS adequacy appeal in the instant proceeding, Quadrant offered to pay \$725,000 towards the Avondale/Union Hill lane improvement as well as another \$115,000 toward the signal optimization project on Avondale Road. During negotiations, at a time when it looked like the City and Quadrant might settle their differences, Redmond's transportation services manager sent a letter (Exhibit 27) to Quadrant stating that these payments would allow the City to consider Quadrant's impacts to the Redmond transportation system to be "fully mitigated." Viewing the letter as a whole, however, other statements demonstrate that the representations of full mitigation, particularly with respect to the signal coordination on Avondale, were hyperbolic in nature. The signal modifications are targeted at achieving an approximate 2 percent increase in operational efficiency during peak hours. In the context of the heavy congestion levels on Avondale, the letter observed that "even a small improvement provides significant benefit."

166. The January 10, 2005, letter from the City to Quadrant did not in fact result in a settlement of issues outstanding between the Applicant and the City. As a document generated within a process of settlement negotiations it would normally have been excluded from the record as an offer to compromise deemed inadmissible under Evidence Rule no. 408. The notes to Evidence Rule 408 suggest that statements contained within offers to compromise should be regarded as inadmissible "based on the policy of promoting complete freedom of communication in compromise negotiations" and to encourage parties "to make whatever admissions may lead to a successful compromise without sacrificing portions of their case in the event such efforts fail."
167. Unfortunately, this compromise letter became part of the record before the hearing opened and Redmond had an opportunity to object to its admission. The DDES staff report issued in advance of the hearing seized upon it as incontrovertible proof that Redmond Ridge East would create no adverse transportation impacts to Redmond facilities. As may already be apparent, the Examiner's recommendation will decline to follow staff's lead in this matter. The issue to be determined is whether Redmond Ridge East will have, in the real world, unmitigated adverse traffic impacts on Redmond facilities, not whether quotations culled from earlier unsuccessful negotiation attempts may suggest otherwise. At a minimum, Redmond Ridge East will add a significant amount of traffic to a heavily congested arterial corridor within Redmond as stated in

the FEIS. It is not plausible to suggest that some minor tinkering with the traffic signal coordination in this corridor will appreciably alleviate the problem. With respect to the Avondale/Union Hill Road intersection itself, the addition of a westbound lane on Avondale will produce a measurable improvement. But the relevant comparison is between two deeply unsatisfactory levels of service “F”, one slightly better than the other.

168. While the staff discussion of the proposed C-2 connector between Redmond Ridge East and Redmond Ridge has applauded its virtues in terms of neighborhood circulation and UPD/FCC connectivity, it is evident that the primary motivation supporting staff’s adamant insistence on this modification as a condition of project approval inheres in the need to remove RRE traffic from Novelty Hill Road. Novelty Hill Road along the UPD frontage after development of Redmond Ridge East would feature four signalized intersections within a span of less than a mile and a quarter. Staff has correctly described this situation as a bottleneck. If the C-2 connector is implemented, traffic from RRE projected for the Novelty Hill Road UPD frontage can be diverted south to Redmond Ridge Drive and the 238th Avenue Northeast corridor, thus reducing project trips on three of the UPD intersections below the 20 percent threshold. Such diversion would also decrease the signal time at Novelty Hill Road intersections that needs to be devoted to turning movements in and out of the UPDs and in some instances reduce queue lengths for turning movements to a manageable level.

If the desirability of the C-2 connector were simply a matter of reducing traffic impacts on Novelty Hill Road, then staff’s enthusiasm would be entirely merited. But as we have discussed earlier, the staff analysis understates the critical areas impacts attendant to the required road crossing of the Redmond Ridge wetland and wildlife tract as well as the resultant regulatory impediments to C-2 approval. One of the bothersome deficiencies of the staff review is its inconsistent treatment of the C-2 connector. When the traffic and circulation benefits of the connector are being heralded with its diversion of commuter volumes and heavy trail and bicycle use, C-2 functions like an incipient collector arterial. But when mitigation of sensitive areas impacts are under discussion, C-2 reverts to being little more than a winding country road.

169. From a strictly traffic impact standpoint, the concern with the C-2 connector is that the effects of diverting significant amounts of project traffic south via Redmond Ridge Drive to the 238th Avenue corridor appear to have been only partially analyzed. Table 2 within Appendix A to the FEIS provides estimates of project traffic without the Novelty Hill Road CIP, comparing the C-2 alternative to the proposed action without C-2. At the intersections of both Redmond Ridge Drive/Northeast 80th Street and Union Hill/238th Avenue Northeast directly to its south, the percentage of PM peak hour project traffic represented in Table 2 increases with C-2 from 8.3 percent (71 trips) to 28.3 percent (243 trips). Table 2 also shows that the southern arm of the Union Hill Road/238th Avenue Northeast intersection goes from 7.1 percent project trips to 11.6 percent with C-2. This implies that the section of Union Hill Road running from 238th Avenue Northeast west to 208th Avenue Northeast will receive a major increase in project traffic, jumping in the PM peak hour from about 2 percent to 16.7 percent.
170. The DEIS traffic study contains the following descriptions of Union Hill Road between 238th Avenue Northeast and 208th Avenue Northeast:

“East of 208th Avenue Northeast, the roadway is classified as a collector arterial. The section east of 208th Avenue has two travel lanes with 2- to 4-foot-wide gravel shoulders. Where new developments have recently been built, the roadway and shoulders have been widened, per King County standards.” (Exhibit 4d, Appendix H, page 14)

“This section of Union Hill Road again has an average accident rate higher than the average for this roadway classification. Union Hill Road east of 208th Avenue Northeast has two lanes with some winding sections that contribute to the accident rate. The accident history is further compounded by substandard shoulders in places.” (Exhibit 4d, Appendix H, page 42)

171. The elevated accident rate on this section of Union Hill Road demonstrates that its rural characteristics are already overtaxed by current traffic volumes. The C-2 connector would significantly increase these volumes in a manner that the EIS documents make no attempt to evaluate. Moreover, Redmond Ridge East with a C-2 connector will increase traffic volumes to the south on the southern leg of the Union Hill/238th Avenue Northeast intersection. As currently configured, this intersection is projected in 2010 with RRE to operate at a deep level of service “F” with an overall delay of more than 220 seconds. The FEIS suggests that this level of service can improve to “E” with the addition of exclusive west bound turn lanes, a southbound left turn lane, a west to south left turn acceleration lane and two-stage gap acceptance for such movement. However, this rather elaborate improvement package, which is assumed in the FEIS analysis to be an element of the committed network for 2010, is not part of any CIP nor does it appear to be funded in any other manner.
172. Quadrant’s traffic consultant near the end of the traffic discussion at the public hearing attempted to shore up the deficiencies with the FEIS discussion of the road alternatives with the last-minute addition of new modeling runs involving the C-2 connector. These documents were admitted over Redmond’s objection as to their timeliness based on the possibility that they might contribute useful information to the overall traffic analysis. On further review these late modeling runs raise as many questions as they answer and should not be relied upon in the absence of an adequate opportunity for other parties to analyze their underlying assumptions.
173. For example, comparing the FEIS, Appendix A, worksheets for the northern leg of the Union Hill Road/238th Avenue Northeast intersection for the PM peak hour for the 2010 action alternative with newly generated Exhibit 224, which purports to provide the same analysis with the C-2 access alternative added, one finds that the total traffic modeled for the intersection in the PM peak hour is 1550 vehicles without C-2 and 1675 vehicles with C-2. This produces an increase of 125 vehicles. But Table 2 within Appendix A of the FEIS shows (as we have seen) total Redmond Ridge East traffic at this intersection in the PM peak hour increasing from 8.3 percent under the 2010 action alternative to 28.3 percent with C-2. This increase of 20 percent project traffic in the PM peak hour translates to 172 additional vehicles, which is 47 vehicles more than the 125 additional vehicles projected within Exhibit 224. This differential implies that the addition of the C-2 access alternative would actually decrease diversionary cut-through background traffic from Novelty Hill Road south through the UPDs. Moreover, on the north-to-west and west-to-north movements at the Union Hill Road/238th Avenue Northeast intersection the FEIS 2010 action worksheet models 460 vehicles, while the C-2 alternative represented by

Exhibit 224 models 400 vehicles, or 60 vehicles less. Since these two movements are unaffected by Redmond Ridge development, it is surprising to find this level of discrepancy between the two model runs.

While there may be perfectly good reasons for these apparent anomalies, nothing in the record provides the needed explanation. Because these results are at least somewhat counterintuitive, we decline to rely on the new data provided in Exhibits 224 and 225 without having first allowed the other parties an opportunity to independently analyze and verify the modeling results and to examine the underlying trip distribution assumptions.

174. As we have seen, the decision by DDES to analyze the traffic impacts from Redmond Ridge East in the FEIS on the assumption that the Novelty Hill Road CIP widening project would not be completed before RRE's 2010 horizon year triggered a Promethean effort to devise ways to justify approval of RRE without reliance on the long-assumed CIP facilities. For the most part this effort has taken the form of staff's insistence upon Quadrant's construction of the C-2 connector, but the FEIS also contains some other creative attempts at resolving the problem, most notably the "King County Novelty Hill Road Interim CIP Project." This innovation appears to have had its genesis within the following wistful discussion that appears at page 81 within FEIS Appendix E with respect to a congested segment of Novelty Hill Road between Redmond Ridge Drive and 234th Avenue Northeast:

"This segment of Novelty Hill Road is forecast to be overcapacity based on the existing lane configuration. Widening the roadway to four lanes would be needed to provide additional capacity. King County could choose to define a roadway cross section that provides for travel lanes that minimizes potential impacts to sensitive areas in the corridor. The widening project could be incorporated into King County's CIP no. 100992 and included in a revision to MPS fees. Under this assumption, the project could mitigate its impacts through payment of updated MPS fees."

Two paragraphs further down within the Appendix E text this pensive speculation emerged full-blown as the "King County Novelty Hill Road Interim CIP Project." Its prospective implementation has been offered as a solution to identified capacity problems on Novelty Hill Road ranging from just uphill from West Snoqualmie Valley Road to the Redmond Ridge Drive, Cedar Park Crescent and 208th Avenue Northeast intersections.

175. There is, of course, no King County Novelty Hill Road Interim CIP Project. Its invention within the FEIS is probably best understood as a further tacit admission that there is really no way to adequately mitigate the traffic impacts from Redmond Ridge East without assuming construction of at least some components of a CIP widening project. No doubt it would be theoretically possible to simply require RRE unilaterally to construct all these interim upgrades as a condition of UPD/FCC approval, and the FEIS notes this possibility. Although never discussed in such terms, the intrinsic problem with this approach would be that requiring Redmond Ridge East to construct all the necessary interim Novelty Hill Road improvements would far exceed its proportionate share obligation for such projects under the County's MPS system. In order for the proportionate share MPS funding mechanism to be applied, a road improvement project has to be

designated a CIP, hence the fiction of the King County Novelty Hill Interim CIP Project as a strategy for limiting Quadrant's responsibility to its fair share of the overall cost.

176. In summary, then, we can reasonably assume that the level of mitigation imposed by the proposed staff conditions generally approximates the proportionate share contribution that can be feasibly imposed on Redmond Ridge East for traffic mitigation. Our summary analysis, therefore, focuses upon the FEIS 2010 action alternative without implementation of either the Novelty Hill Road CIP project or the C-2 connector, and with the staff-recommended conditions unrelated to C-2 in place. Our first concern will be to identify those intersections that will operate in 2010 at a level of service "F" and receive at least 20 percent of RRE's AM or PM peak hour traffic volumes. We will be further attentive to those roadway segments demonstrating serious safety and operational issues where a substantial quantity of Redmond Ridge East traffic will contribute to the problem, even though the 20 percent IS threshold requirement may not always be met.
177. The location with the most serious LOS F problems is clearly the Avondale/Union Hill Road intersection in Redmond, which will operate at a deep level of service "F" in both the AM and PM peak hours under all scenarios. Construction by the City of the westbound right-turn lane to which Quadrant has offered to make a contribution will reduce the intersection delay but it will remain at a deep "F" after the improvement is made. In addition, the entire section of Avondale Road from Union Hill Road north through the Novelty Hill Road intersection, including the Avondale Road/Northeast 95th Street intersection, is congested far beyond its capacity and can be viewed as either a level of service or an overcapacity and safety problem. CIP no. 100901 is expected to extend the northbound right-turn lane to Novelty Hill Road and relieve some of the queuing pressure and resultant level of service problems at the Avondale/Northeast 95th Street intersection. But even with the CIP improvement excessive queues will remain along the southbound through movement. A private development project within the City of Redmond is being required to extend turn lanes on Novelty Hill Road westbound, which may provide an acceptable level of service in the AM peak hour at the Novelty Hill Road/Avondale intersection. But even with these improvements the storage capacity of the right-turn lane is expected to be exceeded in the AM peak hour and blockage of the left-turn movements could result. Moreover, while CIP no. 100901 may be deemed fully funded for construction, the design of the improvement is tied into the environmental studies being done for CIP no. 100992, and actual construction of CIP no. 100901 may be delayed until the CIP 100992 preferred alternative is identified.
178. Along Novelty Hill Road east of Avondale, the staff conditions require RRE to construct a second southbound left-turn lane with additional storage on Redmond Road north of its intersection with Novelty Hill Road. This improvement would not cure the LOS F condition at this intersection but return it to its pre-project status. The staff conditions would circumvent a LOS F condition at the Novelty Hill Road/Redmond Ridge retail intersection by eliminating left turns out of the retail site and requiring traffic to travel instead to one of the signalized intersections either to the east or west. On the north side of Novelty Hill Road, the level of service "F" condition impacting southbound movements from 224th Avenue Northeast would receive signage discouraging intersection blockage, but that does not appear likely to be an effective mitigation. The intersection at Novelty Hill Road/Cedar Park Crescent Northeast within Redmond Ridge will have queuing problems on all of its legs, with westbound traffic blocking

224th Avenue to the east as just described and westbound PM traffic blocking 218th Avenue Northeast to the west. In addition, on Cedar Park Crescent itself traffic queues are expected to back up to the south and block the intersection with Marketplace Drive. Other than signage and further studies, no mitigation has been proposed for these queuing problems. Staff conditions would adequately mitigate the remainder of the queuing problems on Novelty Hill Road along the UPD frontage.

I. TRAFFIC DEMAND MANAGEMENT

179. Implementing the requirements of RCW 36.70.A.350, KCC 21A.39.200.B.2 requires a fully contained community to provide “transit-oriented site planning and traffic demand management programs.” In addition, P-suffix condition BC-P21 section 6B requires the onsite design of a proposal to “promote the use of alternative modes of transportation.” Comprehensive Plan policies flesh these terms out to some degree. Policy U-175 states that the public benefits to be derived from UPD implementation include provision for “transit and nonmotorized transportation opportunities,” and both policies T-116 and T-303 underscore that the essence of the transportation planning process consists of strategies to reduce traffic demand.
180. The only unresolved disagreement of consequence between Quadrant and DDES staff regarding the approval of Redmond Ridge East concerned proposed staff condition 2.11.2, which requires Redmond Ridge East to provide a free shuttle service on weekdays between the UPD site and a nearby regional transit hub such as the Bear Creek or Redmond park and ride lots. The condition would require three morning and three evening shuttle runs during peak commute hours on a regular schedule during the five-day work week beginning when the first 50 lots in Redmond Ridge East are occupied and continuing for at least five years following the recording of the final RRE plat. Quadrant proposes that the shuttle service requirement be deleted from the permit and in its place a transportation management plan be mandated with no required components specified.
181. Much of the discussion surrounding this lively dispute focused on the existing Redmond Ridge TDM program and its performance to date. Redmond Ridge has contracted with the Greater Redmond Transportation Management Association (GRTMA), a non-profit organization, to provide transportation information to Redmond Ridge residents and to generate an annual program review. In addition, a shuttle service serving Redmond Ridge and Trilogy was recently instituted in September 2004 and so far has experienced only minimal use. During the first five months of its existence the shuttle service cost about \$18,000 to operate, at an average cost of about \$120 per ride. Quadrant still underwrites the cost of the Trilogy portion of the shuttle, but recently turned over to the Redmond Ridge Residents Owners Association responsibility for the Redmond Ridge portion of the expense. An interesting sidelight to the controversy was the appearance at the February 28, 2005, public hearing of Simon Muzio, a member of the RRROA board, who stated that Redmond Ridge homeowners no longer want to pay for the shuttle because of its low level of use. Since Quadrant’s project manager, Bonnie Geers, still operates as the RRROA board president, one may safely assume that Mr. Muzio’s comments did not reflect official board policy. Nonetheless, his testimony demonstrates that as the UPD homeowner association boards begin to separate themselves from Quadrant’s control, their enthusiasm for underwriting the developer’s TDM obligations will probably be less than overwhelming.

182. The two annual program review reports for 2003 and 2004 consist mostly of generic GRTMA literature and do not throw much further light on the issues. The 2003 household survey summary is notable for demonstrating that a high percentage of the respondents were Microsoft employees, and nearly 50 percent of the respondents marked the answer, “a financial incentive (allowance/subsidy) for using non-drive-alone modes,” as a program change that would most encourage them to use an alternative to solo commuter driving. The most successful TDM strategies at this point appear to be vanpooling and carpooling, which are probably reflective of the behavior of the Microsoft employees who constitute a large cohort with a common destination. One suspects that the Microsofties would have figured out the carpooling and vanpooling options with or without assistance from the Redmond Ridge TDM program, and once their needs have been accommodated obtaining additional successful TDM results will prove far more difficult. The survey data from the 2004 report is garbled and incomplete, providing a random listing of about 25 percent of the survey respondents and no information as to their questionnaire preference responses.
183. Probably the most incisive critique of the existing UPD shuttle experience was provided by Victor Obeso, a King County Metro planning supervisor. His opinion was that the existing two dollar fare for the shuttle is a disincentive to its use, as is the advance reservation system. He also stated that five months’ experience was not an adequate period upon which to make an evaluation of the program’s potential, and its success would require a more aggressive program of promotion.
184. Quadrant’s proposal is to amend permit section 2.11.2 to provide for a transportation management plan (TMP) targeted at reducing peak-hour offsite trips by a factor of 6 percent at the time of 75 percent occupancy. If the 6 percent reduction factor is not achieved as proposed, Quadrant suggests that “the terms and requirements of the TMP shall be reviewed and adjusted and the County may require other actions to be added to the TMP to meet the goal.”
185. Simply taken on its own terms, Quadrant’s proposed revision to the permit language seems unsatisfactory. The 6 percent reduction standard is probably meaningless in view of the fact that it can only be measured against the EIS traffic projections, and Quadrant has already informed us that for Redmond Ridge the EIS projections exceeded the volumes being actually measured. Thus any attempt to measure TDM success in terms of EIS traffic projections is probably an unworkable approach. Further, TDM is something that Quadrant does only because the County requires it. If remedial action for failure to meet the reduction standard were to be deferred to the point of 75 percent RRE occupancy, it is questionable whether the County would have enough leverage remaining to force the developer to make a more concerted compensatory effort.

Finally, TDM programs are a requirement of FCC approval whether they are cost effective or not. They are part of the price that a developer pays for the privilege of pursuing urban development in the heart of a rural area. The expert testimony and the survey data both suggest that a shuttle service will have a better chance of working if no fares are charged and regular schedule hours are observed. In view of the serious traffic congestion problems in the Novelty Hill area, if Redmond Ridge East is approved a mandatory transit shuttle service component should be included in the permit as proposed by staff as a strategy necessary to reduce traffic demand and effect compliance with FCC requirements.

CONCLUSIONS:**A. TRANSPORTATION CONCURRENCY**

1. The two transportation concurrency certificates issued to the Quadrant Corporation for Redmond Ridge East in late 2002 are governed by the County's concurrency regulations in effect at the time the certificates were issued. This includes all amendments adopted by the County Council through Ordinance 14375, which provisions govern interpretation of the certificates themselves, the applicable concurrency standards, and the requirements and standards for appealing a concurrency certificate.
2. Section 3B of Ordinance 14375 allows challenges to concurrency approvals to be raised as part of the review process for the development application for which the concurrency certificate was issued. Friends of the Law raised timely challenges to the concurrency certificates issued to Quadrant for Redmond Ridge East at the time of the public hearing on the Redmond Ridge East UPD, FCC and preliminary plat applications.
3. Disposition of the Redmond Ridge East transportation certificate appeals is governed by the standard stated at Ordinance 14375 section 3C.4 concerning whether the action of the Department in issuing the certificates was arbitrary and capricious as defined in Washington law. The facts that determine the outcome of this review are those that were in existence in 2002 at the time the concurrency certificates were issued. Later occurrences, including the concurrency test reruns performed by the Department in 2005 specifically for the Redmond Ridge East hearing, are not relevant to the question of whether the issuance of certificates in 2002 was arbitrary and capricious. In addition, the 2005 reruns are unreliable as evidence of the effects of the matters raised within the FOTL challenge because the modeling assumptions that were altered within the 2005 reruns go far beyond the assumptions challenged by FOTL. As described within the findings above, under Washington case law agency action is generally deemed arbitrary and capricious if it is willful and unreasoning and taken without regard to attending facts or circumstances.
4. The transportation concurrency test is based on a TAM calculation which demonstrates the adequacy of the committed network relative to an adopted level of service. The committed network includes existing facilities and proposed arterial roadways that are fully funded for construction within an adopted CIP. If improvements to arterials are included in the committed network beyond those that are fully funded for construction, the capacity of the committed network will be overstated and an erroneous TAM score will be generated. The 2002A concurrency tests for Redmond Ridge East included within the committed network a nonexistent road-widening project on Avondale Road north of Novelty Hill Road and a Novelty Hill Road CIP that was as yet undefined due to the fact that a required environmental impact statement had not been performed. As a result, the Department of Transportation approved concurrency certificates for Redmond Ridge East based on arterial capacity from transportation facilities that were not fully funded for construction within the 2001 adopted CIP. These actions were an error of law and were arbitrary and capricious.
5. The traffic volume link adjustments to the arterial network made by the Department of Transportation for the 2002A concurrency runs were at certain key locations within the Novelty

Hill UPD area based on erroneous 1998 traffic counts. The magnitude of the adjustments required to conform modeled link volumes to the erroneous 1998 counts exceeded limits stated in applicable national standards. Pursuant to such standards these proposed adjustments required further analysis and data verification before they could be relied upon. Moreover, the downward direction of the link adjustments conflicted with other information possessed by the Department which documented unanticipated 1998 background traffic growth in the Novelty Hill area. The effect of these erroneous downward link adjustments was to understate background traffic volumes and overstate the amount of unused road capacity available for new development on Novelty Hill area arterials. Inclusion of these improperly validated link adjustments within the 2002A concurrency model was willful and unreasoning action taken without regard to attending facts and circumstances. It constituted arbitrary and capricious action on the part of the Department.

6. Assignment within the 2002A concurrency model of 48.5 percent of Redmond Ridge East traffic to an internal UPD employment attraction at the Redmond Ridge business park was an error of law to the extent that it was based on a business park square footage of 1.6 million square feet. In 1997 the Redmond Ridge business park was approved for 1.2 million square feet, and section 4A of Ordinance 14375 required the concurrency model to reflect this revised information within the following year's update. In addition, the refined and particularized trip distributions done within the Northridge EIS in the mid-90s and later confirmed within the Redmond Ridge East EIS traffic studies assumed a UPD internal trip distribution to the business park of about 13 percent of project traffic. For the Department within the 2002A residential concurrency test to assume a vastly higher internal business park distribution without providing any supporting analysis therefor was willful and unreasoning action taken without regard to attending facts and circumstances. As such, it was arbitrary and capricious agency action.
7. The three instances of arbitrary and capricious action on the part of the Department of Transportation with regard to performance of the 2002 traffic concurrency tests for Redmond Ridge East are each independently sufficient to invalidate the certificates issued based on such action. And, *a fortiori*, the three arbitrary and capricious actions are cumulatively sufficient to invalidate the certificates.
8. Quadrant's brief observes that most of the FOTL challenge was focused on the residential traffic analysis and asserts that FOTL has not sustained its burden of proof to demonstrate the invalidity of the concurrency certificate issued for the sports complex. There is potential merit to this contention, although except for the business park distribution the record is unclear as to what other specific differences existed regarding the modeling assumptions for the two certificates. Without doubt, a recreational program can be designed to avoid peak hour traffic periods in a way that residential uses cannot. It is unclear, however, whether the sports complex can be regarded as a viable stand-alone project in view of its planned access from Eastridge Drive within the Redmond Ridge East UPD. Without the UPD, alternative access from the south or east may be preferable. Accordingly, rather than to categorically affirm or revoke the sports complex concurrency certificate, a better option is to remand the certificate back to the Department of Transportation to allow a revised concurrency application for the sports complex as a stand-alone development to be submitted within six-months of the Redmond Ridge East decision.

B. SEPA PROCEDURAL ISSUES

9. Both the City of Redmond and Friends of the Law filed timely appeals challenging the adequacy of the Redmond Ridge East FEIS. From the outset the City's appeal focused on RRE's impacts to the Avondale Road corridor and the intersection at Union Hill/Avondale Roads. The FOTL challenge to EIS adequacy was more eclectic in its approach. Many of FOTL's EIS adequacy issues were opposed by Quadrant within pre-hearing motions, and an order issued by the Examiner on January 11, 2005, eliminated some issues and redefined others. Further, as the proceeding progressed most of the traffic issues raised by FOTL became subsumed under the transportation concurrency challenge. Many of the issues alleged initially by FOTL outside the realm of traffic impacts were not further supported with specific evidential testimony, raising the question whether such issues now retain any vitality.
10. The overriding purpose of this proceeding is to generate a decision which comports with the public interest, and in that context the participation of both the City of Redmond and FOTL can be described as raising public interest types of issues. If there is evidence in the record that clearly supports the claims raised by either SEPA appellant, even if that evidence was not introduced by them directly, the public interest supports making a determination that faithfully reflects the evidential record. With respect to FOTL's EIS adequacy allegations concerning impacts to groundwater, drainage, sanitary sewer service, construction phasing and traffic impacts along the SR 202 corridor, the record demonstrates without serious debate the adequacy of the FEIS regarding treatment of such issues. On the other hand, the record is less clear as to FEIS adequacy regarding the treatment of land use impacts from the proposal and, as well, procedural issues such as segregation of the Panhandle plat analysis from the UPD discussion, whether the alternatives analyzed are reasonable as to their range, whether the FEIS improperly contains significant proposal changes, and the adequacy of the FEIS mitigation analysis generally.
11. In *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn. 2d 619 (1993), the Washington Supreme Court provided the following summary description of the EIS adequacy test:

“Whether an EIS is adequate is a question of law, subject to review *de novo*. (Citations omitted)Although review is *de novo*, the court must give “substantial weight” to the government agency’s determination that an EIS is adequate under SEPA. (Citation omitted.) EIS adequacy refers to the legal sufficiency of the environmental data contained in the impact statement. (Citation omitted.) The adequacy of an EIS is tested under the “rule of reason”. (Citations omitted.) In order for an EIS to be adequate under this rule, the EIS must present decision-makers with a “reasonably thorough discussion of the significant impacts of the probably environmental consequences” of the agency’s decision. (Citations omitted.) The rule of reason is “in large part a broad, flexible cost-effectiveness standard”, in which the adequacy of an EIS is best determined “on a case-by-case basis guided by all of the policy and factual considerations reasonably related to SEPA’s terse directives.” (Citation omitted.) (122 Wn. 2d at 632-33.)

12. The range of alternatives contained in the Redmond Ridge East FEIS included the Quadrant proposal for UPD development at a maximum of 800 units, a five-acre development alternative based on the RA-5 zoning in effect on surrounding Rural properties, and a no-action alternative which would allow the property to be sold in 20-acre tax lots exempt from platting requirements. The alternatives provided within the FEIS represent the most probable alternative development scenarios and are reasonable. No need exists to analyze a one or two acre suburban estate alternative because the County's purpose in creating a UPD/FCC zone was precisely to eliminate this type of suburban sprawl. Removal of the proposed Panhandle plat from the FEIS analysis was a reasonable procedural action because Redmond Ridge East is a stand-alone project and its continued analysis at 800 dwelling units includes for cumulative impact purposes the total quantity of residential units that would be constructed within RRE and the Panhandle plat combined.
13. One of the major issues raised within the EIS adequacy challenges is whether potential impact mitigation measures have been adequately described and analyzed. These questions concern primarily the feasibility and effect of major road improvements that could divert project traffic away from the Avondale/Novelty Hill Road arterial corridor. Two of these mitigation alternatives involve the major widening east of Avondale of either the 208th Avenue Northeast or the 196th Avenue Northeast corridor, which would create a new north/south arterial route to draw traffic away from Avondale. The feasibility of these alternatives is under review within the Novelty Hill Road CIP EIS process, which is expected to generate a baseline impact analysis by 2007. In addition, Redmond has identified north/south arterial routes west of Avondale that if expanded could also be expected to pull traffic out of the Avondale corridor. No funded project exists for these Redmond options, and their actual effect on reducing Avondale volumes can only be described at this point as speculative.
14. The traffic study for the Redmond Ridge East FEIS contains the following summary discussion of these various mitigation options:

“As identified in the Draft EIS transportation analysis, under this Final EIS analysis the segment of Avondale Road between Union Hill Road and NE 95th Street would experience increased traffic volumes that would not be directly mitigated with identified roadway and/or intersection improvements or through the King County MPS program... Indirect mitigation could occur through payment of MPS fees which (per Interlocal Agreement) the City of Redmond could apply to other corridors, such as 160th Avenue NE, 185th Avenue NE and 188th Avenue NE that could divert traffic from this intersection. The MPS fees also could be applied to City of Redmond projects that provide high occupancy vehicle treatments along Avondale Road, that are included in the MPS fee program... Contribution towards a future alternative connection between Novelty Hill Road and Union Hill Road, 196th Avenue NE for example, could also provide mitigation if such a connection is identified during the EIS process for the Novelty Hill Road CIP EIS.” (Exhibit 5a, Appendix E, page 96)
15. WAC 197-11-440(6)(c) requires that an EIS shall describe the significant impacts of the proposal and “(iii) clearly indicate those mitigation measures..., if any, that could be implemented...” In addition subsection (iv) requires that the EIS shall:

“Indicate what the intended environmental benefits of mitigation are for significant impacts, and may discuss their technical feasibility and economic practicability, if there is concern about whether a mitigation measure is capable of being accomplished. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant environmental impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA....”

This requirement is further elaborated at WAC 197-11-660(2), which states that an EIS is “not required to analyze in detail the environmental impacts of mitigation measures” unless such measures will “represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts” and such impacts “will not be analyzed in a subsequent environmental document prior to their implementation.”

16. Both the alternative north/south arterial routes being evaluated in the Novelty Hill Road CIP environmental review process and those more vaguely defined options generally identified by the City of Redmond would involve the expenditure of tens of millions of dollars to implement as well as, in many cases, the condemnation of new road right-of-way. Although not explicitly so stated in the FEIS, none of these mitigation options would be capable of being accomplished by any single project developer, and in each case their implementation would require a separate full environmental review. Thus no present purpose would be served by forcing the Redmond Ridge East EIS process to provide a detailed analysis of mitigation measures that could not be reasonably imposed upon the Applicant within this proceeding, and SEPA does not require that such an analysis be performed. Indeed, the FEIS conclusion that the impacts of Redmond Ridge East on Avondale Road between Union Hill Road and Novelty Hill Road will be significant, adverse and unavoidable is a tacit recognition that no feasible mitigation measures currently exist.
17. Most of the shortcomings within the Redmond Ridge East FEIS are the product of shifting development and transportation infrastructure scenarios. The DEIS analyzed Redmond Ridge East and the Panhandle together based on the assumption of a road system that included construction of a Novelty Hill Road CIP widening project. The DEIS also added to this combination a basic discussion of the effects of access alternatives C and C-1. By the time of the FEIS, however, the Panhandle proposal had been eliminated from the analysis, the Novelty Hill Road CIP project had been dropped from the assumed arterial network, and the C-2 route had been added to the alternative connector options. While no problem results from dropping the Panhandle plat from the discussion of developer proposals, removing the Novelty Hill Road CIP and adding the C-2 connector at a late stage in the review created some important informational gaps.
18. The deletion of the Novelty Hill Road CIP from the arterial network and the construction of the C-2 connector would have the combined effect of removing project traffic from Novelty Hill Road and shifting it onto alternative arterial routes. The EIS does not adequately analyze the impacts of this shift on the Union Hill area south of the site, either as to its existing rural character or the adequacy of its rural roadway system. In particular, the impacts of these actions on Union Hill Road between 238th Avenue Northeast and 208th Avenue Northeast have neither been adequately characterized nor analyzed, even though we have been informed that this stretch

is largely a narrow two-lane rural roadway with inadequate shoulders which already experiences an elevated accident rate. The FEIS documents thus do not provide a reasonably thorough discussion of the significant aspects of the probable environmental consequences of approving Redmond Ridge East without the Novelty Hill Road CIP and with the C-2 connector sufficient to approve the project proposal. Based on other known project impacts, however, the FEIS is adequate to support denial of the proposal.

19. The discussion of EIS adequacy issues in the context of the C-2 road connector is complicated by Quadrant's ambiguous relationship to this mitigation concept. At the outset of the hearing, Quadrant was adamant in insisting that the C-2 road connector was the staff's brainchild and that the Applicant was at best neutral towards its implementation. But after the hearing was completed Quadrant changed its position in its post-hearing brief: "Despite its initial misgivings regarding the so-called C-2 road connection across the central Redmond Ridge wetland area, Quadrant now fully supports the County's recommended condition requiring construction of the C-2 road." Since Quadrant has made no serious argument that Redmond Ridge East is capable of mitigating its traffic impacts without the C-2 connector, it is reasonable to conclude that C-2 has now become part of the proposal required to be analyzed within the FEIS.
20. With respect to the remainder of the adverse environmental impacts of the Redmond Ridge East proposal, the discussion within the FEIS appears to be adequate consistent with the principle enunciated at *West Main Associates v. Bellevue*, 49 Wn App 513 (1987), which held that an FEIS need not specifically describe all critical impacts as "significant" so long as the factual bases for such impacts are identified and described therein. Within the RRE FEIS the only unavoidable adverse environmental impacts called out as such are traffic impacts to the Avondale corridor between Union Hill Road and Novelty Hill Road, and to the Redmond Ridge native growth protection area resulting from the C-2 connector's intrusion into a protected wildlife habitat network. But the FEIS factual descriptions support other significant adverse environmental impact findings to traffic levels of service, safety and operations, as summarized at finding no. 178, even though not labeled as such.
21. The County's Intersection Standards at KCC 14.80.030 define as a significant adverse impact a traffic condition caused by the proposed development that will result in a roadway intersection functioning at a level of service "F" where the project adds 30 vehicles in the peak hour comprising at least 20 percent of the proposed development's new traffic generation during that peak period. This definition of a significant adverse impact is not dependent in any way on an assessment of whether the LOS F condition may be made measurably better after project development with implementation of mitigation than it would be without project development and no mitigation. The mitigation options that provide the County with a choice between requiring the intersection to be improved to a better than LOS F condition or merely allowing the developer to return it to its pre-project LOS F state are separately discussed at KCC 14.80.040. Thus a development which can mitigate an intersection to an LOS F which is as good as or better than the pre-project condition remains defined under KCC 14.80.030 as creating a significant adverse impact. The County may accept mitigation to the pre-project LOS F condition as satisfactory but is not required to do so. This distinction becomes of particular importance in reviewing the intersection of Union Hill Road/Avondale Road in Redmond, which after construction of the City's programmed turn lane CIP is projected to show a slightly improved LOS F even with addition of Redmond Ridge East traffic.

22. When Redmond Ridge East contributes substantial volumes of traffic to queues that exceed available storage capacity and block turn lanes or prevent turning movements from side streets, such impacts are significant and adverse. The County's Intersection Standards choose to describe these impacts as safety hazards, which in most cases provides a sufficiently accurate assessment. But under the SEPA statute and regulations, including the elements of the environment listed at WAC 197-11-444, such effects could be considered significant adverse operational impacts to transportation systems as well. The FEIS is adequate when it describes such impacts in a factually accurate manner, notwithstanding whether it always labels the impacts as being significant.

C. ZONING REGULATIONS

23. The zoning designation for the parcels contained within the Redmond Ridge East applications is UR-P-SO, which indicates that the base zoning is Urban Reserve and the parcels are subject to both a set of property-specific development standards and to one or more special district overlays. The property-specific development standards are contained in development condition BC-P21, and both the UPD and FCC special district overlays pertain to the properties.
24. The UPD requirements are contained in portions of KCC Chapter 21A.38 and within KCC 21A.39.010 through .130. These regulations mainly describe the application process, the required contents of the UPD proposal, its review framework and the necessity for a development agreement. The UPD provisions provide little in the way of substantive approval or performance standards. KCC 21A.38.080 requires that a UPD application contain at least 200 contiguous acres under one ownership. KCC 21A.39.050 requires that the primary UPD land use be residential and that an existing or potential commercial development be provided to meet the convenience shopping needs of UPD residents no further away than one-quarter mile from the UPD boundaries. KCC 21A.39.060 specifies the UPD 30 percent affordable housing requirement, and KCC 21A.39.070 requires that a UPD meet the basic onsite recreation standards specified in KCC Chapter 21A.14. The Redmond Ridge East application complies with all of these requirements.
25. An application for an FCC permit requires compliance with UPD standards as well as with the additional standards stated at KCC 21A.39.200, some of which are prescriptive in nature. KCC 21A.39.200.B.2 requires transit-oriented site planning and traffic demand management programs to be "implemented". KCC 21A.39.200.B.4 requires that an FCC provide "a mix of uses...to offer jobs, housing, and services" to UPD residents. However, "no particular percentage formula for the mix of uses is required" and "service uses in the FCC may also serve residents outside the FCC where appropriate." RRE will not have its own retail or business park development but rather will rely on such developments nearby in Trilogy and Redmond Ridge. This reliance on offsite amenities is authorized by KCC 21A.39.200.D, which directs County review to "consider the uses and other characteristics of any existing FCC permit on an adjacent site within the FCC area." While Trilogy only has a UPD permit and not an FCC permit, RRE's reliance on the Village retail center immediately to the north within Trilogy complies with the intent of subsection D. Further discussion of FCC business park issues will be deferred to the discussion of development condition BC-P21, the requirements of which are somewhat more definitive.

26. KCC 21A.39.200.B.7 addresses the issues of urban impact containment. It requires the establishment of “development regulations...to ensure urban growth will not occur in adjacent non-urban areas”, including specifically rural zoning for adjacent rural areas and sizing and hookup limitations on FCC water and sewer systems. The recent Washington Supreme Court decision in *Quadrant Corporation v. Growth Management Hearings Board* (docket no. 75076-9, May 5, 2005) clarified that the statutory term “fully contained community” as used in RCW 36.70A.350 and repeated in the County regulations does not in itself establish an underlying requirement that FCCs be contained in fact. The Court concluded that the term “fully contained community” has no independent regulatory significance, but observed in a footnote that nothing within the statute prevented a local jurisdiction from supplying a substantive regulatory meaning to the term. KCC 21A.39.200.B.7 speaks primarily to the need for development regulations to be enacted to ensure urban growth containment and makes no separate reference to FCC permit conditions. The subsection, therefore, supplies only rather minimal regulatory requirements for urban impact containment.
27. The nearest that the County’s FCC permit standards come to imposing any kind of firm regulatory requirement is in the area of environmental protection. KCC 21A.29.200.B.6 mandates environmental protection to be addressed “at levels at least equivalent to those imposed by adopted King County environmental regulations” and subsection 9 requires the new FCC to be “consistent with the development regulations established for the protection of critical areas of King County pursuant to RCW 36.70A.170.” These provisions read in combination with the regulatory flexibility provisions of KCC 21A.39.030 applicable to UPD permits probably mean that environmental regulations may be altered within an FCC approval but only if it will result in no net increase in adverse critical areas or other environmental impacts. Redmond Ridge East meets the environmental protection and critical areas requirements of KCC 21A.39.200.B if it is developed without the C-2 road connection. With the C-2 road connection, Redmond Ridge East would not comply with these FCC requirements because C-2 is not a permitted alteration of a wetland complex or wildlife habitat corridor, and no level of compensatory mitigation is capable of meeting the no net increase in adverse impact standard.
28. The requirements of development condition BC-P21 generally parallel those contained with KCC 21A.39.200 for FCCs, but in certain important respects BC-P21 provides more rigorous and detailed requirements. Subsection 4 requires within the Novelty Hill UPD area as a whole “sufficient area to accommodate retail/commercial and business park uses to serve the needs and provide employment for future residents and employees.” This language forges a stronger link between the creation of residential housing and the need to provide a significant level of onsite employment for these new residents. This same connection is made even more forcefully within Comprehensive Plan policy CP-102m, which requires for the Novelty Hill UPDs “a business park of sufficient size to provide a diversity of employment opportunities and a balance of jobs and households for the UPD area.”
29. As stated in the findings above, no serious problem is presented by the concept that business park and retail development off-site at Redmond Ridge and Trilogy should be regarded as providing retail and employment services to Redmond Ridge East. The problem with the Applicant and staff position results from the possibility that all residential construction for the three UPDs could occur before any business park jobs are generated. While it is one thing to say that within an FCC no particular mix of uses is required, a balance of jobs and households implies that at

least some business park development needs to occur before all UPD residential development is built out. Since all of Redmond Ridge and Trilogy is likely to be built out before significant residential construction occurs at Redmond Ridge East, the first components of the business park actually constructed and occupied should be regarded as serving the needs of the earlier-approved UPDs.

A maximum of 4750 dwelling units have been authorized for the three UPDs collectively, 3950 of which, or 83 percent, will be in Redmond Ridge and Trilogy. Thus if the Redmond Ridge business park is viewed as serving all three UPDs equally, Redmond Ridge East residents will only begin to be served by the business park after it reaches 83 percent occupancy. Alternatively, if the business park is viewed as serving only Redmond Ridge and RRE, Redmond Ridge would constitute 65 percent of the 2300 total units authorized, and business park development would begin to serve RRE after the 65 percent occupancy threshold had been exceeded. Since Trilogy was approved as an age-restricted community and was not conditioned upon business park development, it is reasonable to exclude it from the computation and to regard Redmond Ridge East as served by the Redmond Ridge business park at the point when the 65 percent threshold has been met. If RRE is approved, compliance with the BC-P21 development condition standard as clarified within Comprehensive Plan condition CP-102m requires that RRE residential construction be deferred until the Redmond Ridge business park reaches 65 percent occupancy based on its approved floor area.

30. Subsection 5C of development condition BC-P21 differs from the UPD and FCC standards in that it also specifies a school facilities requirement. Although worded in terms of the former Northridge proposal, it should be read as applying to Redmond Ridge East as well. The standard requires UPD provision of “adequate school sites consistent with the Lake Washington School District standards and requirements.” RRE can meet this requirement if it is conditioned to make a school site available to the District at some point prior to actual residential construction.
31. Development condition BC-P21 also departs significantly from the UPD and FCC permit format in supplying a meaningful transportation standard for UPD development. Development condition subsection 6A requires that a transportation plan provide for “compliance with King County concurrency standards, level of service standards, safety and operation standards...” Support for the imposition of substantive UPD traffic standards is also found within the Novelty Hill Subarea Comprehensive Plan policies at policy CP-102e, which supports UPD development only when it can be ensured “that the existing road system in both King County and Redmond is not adversely affected.” Further detail provided at policy CP-112 identifies the Avondale Corridor Study recommendations as a mitigation basis and states that “mitigation shall preserve the operational integrity of the corridor and maintain existing local access.” This policy also provides that “phasing of Bear Creek and Redmond development should be strongly linked to the provision of adequate transportation facilities and travel demand management programs.”
32. The key regulatory phrase within BC-P21 is “compliance with King County concurrency standards, level of service standards, safety and operation standards.” Our earlier discussion concluded that the concurrency certificates issued for Redmond Ridge East were the consequence of arbitrary and capricious action and that concurrency standards have not been met. Compliance with level of service standards at the Union Hill Road/Avondale Road intersection does not mean simply maintaining the currently existing deep level of service “F”,

but in fact mandates achieving level of service “E” or better. In like manner, achieving compliance with safety and operation standards so that the operational integrity of the Avondale/Novelty Hill Road corridor is preserved and existing local access is maintained necessitates the mitigation of gridlock queue blockage problems beyond the placement of signs pleading for intersection spacing gaps or instructing turning traffic to go someplace else. Simply based on traffic impacts to intersections along the Avondale corridor within the City of Redmond, level of service, operational and safety standards cannot be met under any of the alternative scenarios analyzed within the EIS documents. At best, with implementation of the C-2 connector, some but not all safety and operation impacts along the Novelty Hill portion of the corridor could be resolved. In short, Redmond Ridge East does not comply with any of the transportation standards quoted above within subsection 6A of development condition BC-P21.

D. DISCRETIONARY DECISIONS

33. Beyond the failure of the Redmond Ridge East proposal to comply with mandatory zoning and transportation concurrency requirements, there also exists substantive authority under SEPA to deny the RRE proposal under the provisions of WAC 197-11-660. Because SEPA operates primarily to disclose and analyze adverse environmental impacts, the exercise of substantive authority to deny a project is discretionary. WAC 97-11-660 allows such discretionary denials to occur based on policies, plans, rules or regulations formally designated by the County in its SEPA ordinance as the basis for exercising substantive authority. In addition, WAC 197-11-660(1)(f) only authorizes project denial under SEPA substantive authority when based on findings that the proposal is likely to cause significant adverse environmental impacts as identified in the final environmental impact statement and that reasonable mitigation measures are insufficient to mitigate such impacts.
34. As applied to Redmond Ridge East, substantive SEPA authority should be invoked for project denial primarily with respect to the proposal’s impacts to transportation facilities in Redmond. It is also the conclusion of this report that the project, in the absence of the Novelty Hill CIP and with the C-2 connector, would also have unmitigated adverse environmental impacts to rural character in the Union Hill area resulting from urban project traffic being forced off the Avondale/Novelty Hill Road corridor and onto rural roads in rural neighborhoods. These impacts would violate a number of Comprehensive Plan policies designed to protect the Rural area but would not be subject to an action denying the project under authority of WAC 97-11-660 because these rural character impacts are not defined with any particularity within the RRE environmental documents.
35. Substantive authority within formally designated County regulations or policies supporting the denial of Redmond Ridge East based on its traffic impacts is found at KCC 21A.28.060.A, which requires all new development to be served by adequate roads. Roads are deemed adequate “if the development’s traffic impacts on surrounding public roads are acceptable under the level of service standards and the compliance procedures established in KCC Title 14.” In addition, for the Novelty Hill Road area specifically, Comprehensive Plan policy CP-102e undertakes to ensure that the existing road system in both King County and Redmond is not adversely affected by new development, and CP-112 seeks to preserve the operational integrity of the Avondale/Novelty Hill Road corridor and maintain existing local access thereto.

The Redmond Ridge East FEIS identifies as significant adverse environmental impacts of the proposal its contribution to a deep level of service “F” condition in Redmond at Union Hill/Avondale Road intersection and to safety along the Avondale corridor north of this intersection. Even though the congestion along the Avondale corridor is described primarily in terms of safety impacts, the calculated volume/capacity ratio along this road section greatly exceeds the 1.1 maximum permitted under concurrency standards, and the resultant chronic queues also impair the operational integrity of the corridor.

36. The mitigation measures for these impacts reasonably available to Quadrant are insufficient to do more than effect inconsequential improvements to the deep LOS F, overcapacity and queuing conditions. In view of the seriousness of the congestion problems, marginal improvements are not acceptable under the County’s level of service standards. While maintenance of a pre-project level of service “F” condition may be considered viable mitigation under some circumstances, it should be rejected here as a matter of public policy because it prevents any progress being made toward improvement of an intolerable situation. If each minor capacity improvement contemplated by the City of Redmond is allowed to be preemptively appropriated by County-approved development based on merely not making a level of service “F” condition any worse, then no overall improvement can ever occur. The deep “F” becomes *de facto* the new level of service standard. Moreover, under such circumstances the City of Redmond has no motivation to propose new capacity projects to alleviate the problem because such projects will only enable further new development in unincorporated King County while providing no discernible benefit to its own citizens.
37. A secondary source of discretionary authority also deserves brief discussion. This affects potential approval of the C-2 road connection, which as previously described would violate Critical Areas Ordinance standards and would not qualify as a permitted alteration thereof. However, KCC 21A.39.030.B authorizes the UPD process to “allow development standards different from those otherwise imposed under the King County Code...in order to provide flexibility to achieve public benefits, respond to changing community needs, and encourage modifications which provide the functional equivalent or adequately achieve the purposes of county standards.” While there is no argument to be made that modification of CAO wildlife habitat and wetland complex standards under UPD authority can achieve the functional equivalent of such standards or the purposes of the CAO, the language conferring flexibility to achieve public benefits and a capability to respond to changed community needs may be permissive enough to support nearly any modification imaginable.

Quadrant has applied for both FCC and UPD permits, but it only legally requires the less stringent UPD permit to go forward. A scenario exists where the FCC permit could be denied but the UPD permit approved. This would be possible because UPD permit requirements contain no critical or sensitive areas standards of any kind, and development condition BC-P21 only requires the formal establishment of natural resource protection areas. It thus is possible for Quadrant to accept the FCC permit denial and rely entirely upon UPD permit approval based on the Council exercising its discretionary authority to carve an exception to CAO regulations to authorize the C-2 connector. While this scenario only works if the transportation issues documented in this report are also ignored, it raises issues that at least need to be understood.

38. The most compelling argument against exercising Council discretion under KCC 21A.39.030.B to create an exception from CAO wildlife habitat corridor and wetland complex regulations which authorizes construction of the C-2 connector road across the Redmond Ridge NRPA is that such an exception would constitute an undesirable public policy precedent. The recently enacted CAO is a controversial regulation perceived as onerous and unfair by large numbers of county residents, particularly in the Rural area. Resistance to the new CAO is likely fueled in part by the suspicion that these complex and burdensome requirements will be enforced strictly against small property owners, with larger corporate interests receiving gentler treatment. As originally proposed by Quadrant, Redmond Ridge East admirably attempted to comply with both the letter and the spirit of the new CAO. To grant to Quadrant a major waiver from CAO requirements in a context where no meaningful mitigation of impacts can be achieved would fuel the worst public fears regarding selective application of CAO standards. In the long run, this would both harm Quadrant in gaining popular acceptance for its island of urban development as well as undercut the County's efforts to promote the CAO as a necessary and evenhanded regulation.

Exercise of UPD discretionary authority to modify CAO regulations to accommodate the C-2 connector road would also violate the provisions of the Novelty Hill Subarea Comprehensive Plan policies, specifically CP-102a, which requires UPDs "to protect existing wetlands, streams and wildlife habitat,...[and] be consistent with the intent of King County ordinances, King County Comprehensive Plan policies and sensitive areas regulations"; policy CP-110, which requires development plans to "identify significant wildlife habitat and...locate buildings, roads, and other features on less sensitive portions of the site"; and policy CP-113, which provides that "establishment of new rights-of-way...should emphasize protection of natural systems."

E. SUMMARY

39. There is much to like about the Redmond Ridge East proposal. Its natural system and resource studies are exemplary, and its master drainage plan shifts and balances impacts to achieve an acceptable level of mitigation within a highly sensitive environment. On a social level, RRE's 30 percent affordable housing component would provide important additional resources to an overpriced and inadequately supplied market. If the transportation infrastructure available to Redmond Ridge East for its horizon year were sufficient, there would be little reason to pause over approval of these applications.
40. The unhappy truth is, however, that with the delay of the Novelty Hill CIP project, the transportation infrastructure system available to Redmond Ridge East will be woefully inadequate and the magnitude of this insufficiency overrides all other considerations.
41. The Redmond Ridge East UPD, FCC and preliminary plat applications cannot be approved because the transportation concurrency certificates issued for Redmond Ridge East were based on arbitrary and capricious agency actions and are therefore not valid. Moreover, the traffic impacts of the RRE proposal do not comply with County concurrency, level of service, or operational and safety standards as required by subsection 6B of development condition BC-P21. These transportation deficiencies are not subject to discretionary waiver and mandate denial of the applications.

42. Under all scenarios traffic from Redmond Ridge East will cause unmitigated adverse environmental impacts at the Union Hill Road/Avondale Road intersection in Redmond and along the Avondale corridor north of this intersection. Based on these impacts, the County should exercise its substantive authority under SEPA to deny the Redmond Ridge East proposal. Addition of the proposed C-2 connector to the UPD onsite roadway system would reduce traffic impacts along Novelty Hill Road adjacent to the UPD frontage and slightly reduce project impacts along the Avondale corridor. The C-2 connector, however, would violate the County's Critical Areas Ordinance and create a further unmitigated significant adverse environmental impact to the County-designated wildlife habitat corridor which the road would bisect. Approval of the C-2 connector offers an unacceptable tradeoff because it would create long-term adverse impacts to critical areas in order to gain a short-term traffic mitigation benefit pending completion of the Novelty Hill Road CIP. This is a poor bargain for both the environment and the public, and it should be rejected.
43. Based on its disclosure of significant adverse traffic impacts to the Avondale Road arterial and significant adverse environmental impacts to the Redmond Ridge NRPA and its wildlife habitat corridor, the Redmond Ridge East FEIS is reasonably adequate to support denial of the RRE proposal. Conversely, the FEIS is not adequate to support approval of the project in the absence of the Novelty Hill CIP and with addition of the C-2 connector because it does not adequately describe the proposal's impacts to rural roads and rural character in the Union Hill area south of the project.
44. An appendix has been attached to this report that describes a process for remanding the project back to DDES for further review in lieu of outright project denial. The remand conditions identified in this appendix are designed to defer the project until certain critical deficiencies have been corrected. Since this delay will most likely encompass a span of years, the Council should not approve any remand without Quadrant's written acceptance of its terms and conditions.

RECOMMENDATIONS:

A. TRANSPORTATION CONCURRENCY CERTIFICATES

DENY and VACATE transportation concurrency certificate no. D1449 issued to the Quadrant Corporation on December 11, 2002, on the grounds that it was issued pursuant to arbitrary and capricious action by the Department of Transportation. Issuance of a new concurrency certificate to Quadrant for Redmond Ridge East residential development shall require a new concurrency application based on the regulations in effect at the time of such application.

REMAND transportation concurrency certificate no. 01445 issued to the Quadrant Corporation on October 21, 2002, to the Department of Transportation for further action consistent with this report. Within 180 days of the date this decision becomes final, Quadrant may submit a revised concurrency application for the sports field complex that describes how the proposal will be accessed and developed in the absence of construction of Redmond Ridge East. A new certificate of transportation concurrency may be issued for the sports complex based on the regulations in effect in 2002 and the 2002A concurrency model corrected to conform to the findings within this report.

B. UPD AND FCC PERMITS AND PRELIMINARY PLAT APPROVAL

DENY urban planned development permit application no. L02UPD01, full contained community application no. L03FCC01 and preliminary plat application no. L03P0003 on the grounds that the three applications are not supported by a valid concurrency certificate; the proposal does not comply with County concurrency, level of service, safety and operational standards as required by subsection 6A of development condition BC-P21; and pursuant to substantive authority under SEPA based on the fact that the proposal will create probable unmitigated adverse traffic impacts in the City of Redmond at the intersection of Union Hill Road/Avondale Road and to its north along the Avondale Road corridor.

RECOMMENDED this 28th day of June, 2005.

Stafford L. Smith
King County Hearing Examiner

A list of the parties and interested persons of record may be obtained from the Hearing Examiner's office.

APPENDIX

The Redmond Ridge East parcels are currently zoned for urban development pursuant to a UR-P-SO designation. Comprehensive Plan policy CP-102 provides, however, that the “area will revert to rural if UPD development is denied or not pursued. If the UPD area reverts to rural, the zoning shall be RA-5.”

If the Council accepts the Examiner’s recommendation that Redmond Ridge East cannot be approved at this time, the Council will also need to address the question of future development of the RRE parcels. While this question is not directly before the Council in this proceeding, the Council’s current decision may wish to anticipate how the future development issue is to be resolved. If the Council’s policy determination is that Redmond Ridge East should be rejected and the property should revert from Urban to Rural status, a simple denial of the project suffices.

If, on the other hand, the Council believes as a matter of policy that UPD development on the Redmond Ridge East parcels remains a desirable objective to be accomplished at some future date when the necessary transportation infrastructure is in place, in lieu of outright denial the Council may want to consider remanding the applications back to DDES pursuant to a set of instructions defining when the applications would again be eligible to return to public hearing. This approach would have the benefits of avoiding the creation of an immediate conflict with the reversionary language of Comprehensive Plan policy CP-102, avoiding the necessity that Quadrant redo those portions of its application materials that have already been deemed adequate, and providing some needed structure for the eventual resolution of the chronic issues that attend review of these UPD applications.

Since the proposed remand conditions specified below will undoubtedly delay further review of the Redmond Ridge East application for a number of years, in order to avoid future litigation of stale issues the County should require that Quadrant accept in writing the terms of the remand order. The recommendation, therefore, is that within 21 days of contingent Council approval of the remand order outlined below Quadrant shall execute in a form approved by the prosecuting attorney’s office an agreement accepting the following terms and conditions to govern the remand process. If such agreement has not been executed by Quadrant prior to the twenty-one day deadline, this remand order shall be deemed withdrawn, and in lieu thereof the Redmond Ridge East UPD, FCC and plat applications shall be denied as of the deadline date.

Proposed remand terms and conditions

The Redmond Ridge East UPD, FCC and preliminary plat applications will not be rescheduled for public hearing until all of the following conditions are met:

1. A final environmental impact statement for the Novelty Hill Road CIP no. 100992 shall have been issued, a preferred alternative selected and designed, and a contract executed for initial project construction.
2. A supplemental EIS shall have been issued containing an analysis of the trip distribution and traffic impacts of the Redmond Ridge East proposal based on construction of the

Novelty Hill Road CIP preferred alternative plus any other changes in the supporting arterial network committed for construction by the project's horizon year.

3. A new concurrency certificate shall have been issued by the County Department of Transportation for Redmond Ridge East residential development. The portions of the Hearing Examiner's report and recommendation invalidating the 2002 residential concurrency certificate and remanding the commercial certificate remain in effect.
4. Occupancy permits have been issued for at least 65 percent of the 1.2 million square foot floor area (e.g., 780,000 square feet) approved for the Redmond Ridge business park.

NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before July 12, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before July 19, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE FEBRUARY 22 – 28, MARCH 1 -11, 17 AND 25, AND APRIL 11, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NOS. L02UPD01, L03FCC01 & L03P0003.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Elizabeth Lee, Lanny Henoch, Kristen Langley and Barbara Heavey, representing the Department of Development and Environmental Services; Keith Moxon representing the King County Department of Transportation; Richard Wilson and Bonnie Geers representing the Applicant, Quadrant Homes; James Haney representing Appellant, City of Redmond; David Bricklin representing Appellant, Friends of the Law; Michael Jonson representing Appellant, North Sammamish Sewer and Water District; Michael Ruark representing Appellant Union Hill Water Association; Cass Newell, Dennis McMahon, Gene Peterson, Peggy Wyatt, Mark Weisman, Keith Goldsmith, John Pickering, Jarrod Lewis, Richard Lowe, Andrew Kindig, Carl Hadley, Lorin Reinelt, Steve Foley, Kelly Whiting, Nick Gillen, Richard Lundquist, Curtis Koger, Ken Johnson, Ken Jauch, Nancy Temkin, Justin Ruiz, Judy Mangina, Joseph Elfelt, Kris Colt, Judy Willman, Brian Bodenbach, Nancy McFarland, Margaret Rockenbeck, Bob Vineyard, Karen Winger, Dan Neault, Therese Jardine, Simon Muzio, Jim Cushing, Therese Cushing, Marilyn Windsheimer, Maureen Sunn, Deanna Falcone, Miles Ulrich, Julie Sheldon, Sharyn Robbins, Delora Ahlegian, Peter Robbins, Pamela Cooney, Larry Toedtli, Dr. Ho-Chuan Chen, Hossein Barahimi, Jennifer Lindwall, Aaron Grimes, Richard Warren, Ian Taylor, John Shively, Paulette Norman, Bill Pollard, Tom Naguchi, Victor Obeso, Ann Martin, Victor Bishop, Donald Cairns, Rosemarie Ives, and Joel Pfundt.

The following Exhibits were offered and entered into the record on February 22, 2005:

- Exhibit no. 1 LUSD file for permit applications L03P0003, L03FCC01, and L02UPD01.
- Exhibit no. 2 DDES staff report, prepared for the February 22, 2005 public hearing.
- Exhibit no. 3 “Proposed Redmond Ridge East Fully Contained Community Permit and Urban Planned Development Permit,” prepared by DDES and dated 2/8/05.
- Exhibit no. 4 Redmond Ridge East Draft Environmental Impact Statement (DEIS) and appendices, dated April 8, 2004:
 - 4a Draft Environmental Impact Statement (DEIS)
 - 4b DEIS Technical Appendices, Volume 1
 - 4c DEIS Technical Appendices, Volume 2
 - 4d DEIS Technical Appendices, Volume 3
- Exhibit no. 5 Redmond Ridge East Final Environmental Impact Statement (FEIS) and appendices, dated November 15, 2004:
 - 5a Final Environmental Impact Statement (FEIS)
 - 5b FEIS Technical Appendices, Volume 1
 - 5c FEIS Technical Appendices, Volume 2
- Exhibit no. 6 Affidavit of Posting, received 4/14/03, completed by Bonnie Geers, indicating signs were posted on 4/11/03 giving notice of the filing of the subject applications.
- Exhibit no. 7 Notice of Application, mailed 4/14/03.
- Exhibit no. 8 Notice of Recommendation and Hearing, mailed 2/8/05.
- Exhibit no. 9 Applicant’s applications for L03P0003, L03FCC01, and L02UPD01, received 3/3/03.
- Exhibit no. 10 “Permit Application Report,” received 3/3/03, submitted by the applicant as an attachment to the application, prepared by Hugh G. Goldsmith & Assoc, Inc., and Hillis Clark Martin & Peterson.
- Exhibit no. 11 March 31, 2003 letter from Elizabeth Lee, King County DDES to Bonnie Geers, Quadrant, indicating the subject applications have been determined to be “complete,” for purposes of application submittal.
- Exhibit no. 12 Applicant’s proposed UPD/FCC/preliminary plat map, revised and received 1/20/05:
 - 12a Scale: 1 inch = 200 feet (1 sheet)
 - 12b Scale: 1 inch = 100 feet (2 sheets)

- Exhibit no. 13 King County Certificate of Water Availability, signed by the City of Redmond on 1/30/03 and submitted by the applicant on 3/3/03 with the applicant's application.
- Exhibit no. 14 King County Certificate of Water Availability, signed by the City of Redmond on 2/1/05 and submitted by the applicant on 2/4/05.
- Exhibit no. 15 King County Certificate of Sewer Availability, signed by the City of Redmond on 1/30/03 and submitted by the applicant on 3/3/03 with the applicant's application.
- Exhibit no. 16 King County Certificate of Sewer Availability, signed by the City of Redmond on 2/1/05 and submitted by the applicant on 2/4/05.
- Exhibit no. 17 Certificates of Transportation Concurrency:
 - 17a Certificate #01445, dated 10/21/02
 - 17b Certificate #01449, dated 12/11/02
- Exhibit no. 18 Proposed Master Drainage Plan (MDP) for Redmond Ridge East, last revised February, 2005, prepared by Hugh G. Goldsmith & Assoc. DDES has recommended approval of the MDP, as noted by Exhibit 19.
- Exhibit no. 19 Letter to Stafford Smith from Joe Miles, Manager, King County Land Use Services Division, dated 2/8/05, re. the RRE Master Drainage Plan.
- Exhibit no. 20 Map entitled "Road Classifications Redmond Ridge East," prepared by Hugh G. Goldsmith & Assoc. This map shows the applicant's proposed road classifications for roads within Redmond Ridge East.
- Exhibit no. 21 May 7, 2004 letter from Joseph Elfelt, Friends of the Law, to Rich Hudson, King County DDES, with attachments.
- Exhibit no. 22 April 27, 2004 email from Michael Costello to Rich Hudson, King County DDES, with attachments.
- Exhibit no. 23 January 11, 2005 letter from Richard W. Lundquist, Raedeke Associates, Inc., to Bonnie Geers, Quadrant, re. "Redmond Ridge East – Review of Revised Site Plan for Compliance with King County CAO," with attachments.
- Exhibit no. 24 January 20, 2005 memo from Richard W. Lundquist, Raedeke Associates, Inc., to Bonnie Geers, Quadrant, re. "Redmond Ridge East – Supplemental Information on Buffer Averaging King County CAO
- Exhibit no. 25 February 11, 2005 email from Richard W. Lundquist, Raedeke Associates, Inc., to Lanny Henoch, DDES, regarding wetland categorization under the CAO for off-site wetlands along the route of Road Alternative C-2.
- Exhibit no. 26 January 6, 2005, memorandum from Carl Hadley, Cedarock Consultants, Inc., to Bonnie Geers, Quadrant, re. "Redmond Ridge East – Buffer Comparison."
- Exhibit no. 27 January 10, 2005 letter from Don W. Cairns, City of Redmond Public Works Department, to Bonnie Geers, Quadrant
- Exhibit no. 28 January 14, 2005 letter from Bonnie Geers, Quadrant, to Don Cairns, Transportation Services Manager, City of Redmond.
- Exhibit no. 29 Letters from Harold Taniguchi, Director, KCDOT, to David Rhodes, Director, City of Redmond Public Works Department:
 - 29a Dated December 3, 2004
 - 29b Dated February 7, 2005
- Exhibit no. 30 File containing the following five letters from citizens providing comments on the subject proposal:
 - 30a April 20, 2003 email from Nancy McFarland
 - 30b April 24, 2003 letter from Nancy McFarland
 - 30c April 25, 2003 email from Steve Snell
 - 30d May 4, 2003 email from Caryn Siebert
 - 30e January 15, 2004 email from Judith Westall
- Exhibit no. 31 Vicinity Map showing the location of Road Alternatives C and C-2 and other land uses, highlighted in yellow and orange. Base map prepared by Hugh G. Goldsmith & Assoc. and annotated by DDES staff.

- Exhibit no. 32 Map entitled “Novelty Hill Road Project Alternatives,” showing alternatives to be considered in the Novelty Hill Rd. CIP EIS, which is currently being developed. This map was prepared at the request of KCDOT.
- Exhibit no. 33 Redmond Ridge East Trails Plan, prepared by the Weisman Design Group for the Quadrant Corp., dated February, 2005
- Exhibit no. 34 2002 Concurrency map – whole county
- Exhibit no. 35 2002 Concurrency map excerpt – Bear Creek area
- Exhibit no. 36 List of monitored corridors
- Exhibit no. 37 Zone 372 concurrency printouts
- Exhibit no. 38 King County Road Services Division, 2001 Adopted Capital Improvement Project (CIP), Novelty Hill Road (p. 14)
- Exhibit no. 39 KCDOT Roads 2001 – 2006 CIP – Bond Funding Highlights (2 pages)
- Exhibit no. 40 2001 – 2006 Capital Improvements Projects with Bonding (Map)
- Exhibit no. 41 Email from Bill Oakes to John Shively (cc: J. Lindwall; R. LeSmith) dated Wednesday, June 20, 2001 at 4:16 p.m. re: Novelty Hill Capital Improvement Project (CIP)
- Exhibit no. 42 Volume Delay Functions (VDF) – 1300 Zones
- Exhibit no. 43 Excerpts from Planning Level Alternative Cost Estimates, Bear Creek Area, East/West Corridor Alternatives, NE Novelty Hill Road Improvements Project, December 2002 (Cost Estimates Background and Engineer’s Estimate – Novelty Hill Road (5-Lane Blue Line))
- Exhibit no. 44 Memo from Linda Dougherty to Ho-Chuan Chen, dated 5/01/03 with attached documents
- Exhibit no. 45 Résumé of Victor Salemann, P.E. (David Evans and Associates, Inc.)
- Exhibit no. 46 David Evans and Associates Investigation of Whistleblower Complaint Regarding Concurrency Traffic Model dated December 2003
- Exhibit no. 47 Résumé of Dr. B. Kent Lall (Portland State University, Department of Civil & Environmental Engineering)
- Exhibit no. 48 Dr. B. Kent Lall Reviewer Report dated February 2004, with cover letter dated March 1, 2004 and attached letter to Amy Calderwood dated March 10, 2004.
- Exhibit no. 49 Excerpt from State of Oregon, Department of Transportation, Travel Demand Model Development and Application Guidelines (September 1994/revised June 1995)
- Exhibit no. 50 Page 1 of Clearinghouse from TMIP Web site and pp. 1-9 of Calibrating and Adjustment of System Planning Models – December 1990
- Exhibit no. 51 Excerpt from King County Multi-Modal Travel Model Development – Phase 1 Report, Work Order 3 (February 16, 2001)
- Exhibit no. 52 Transportation Concurrency Management (TCM) 1998 Base Network Screening Validation
- Exhibit no. 53 Transportation Concurrency Management (TCM) 1998 1300 Zone Model Screenline Validation for R2002a Model Update (3/06/02)
- Exhibit no. 54 Capacities in TCM 2002a Model Update (1300 Zone Network) (February 2002)
- Exhibit no. 55 Transportation Concurrency Management (TCM) Model printouts (14)
- Exhibit no. 56 Redmond map of Ridge East Existing Drainage Basins dated 2/05/05
- Exhibit no. 57a Redmond Ridge East preliminary plat map dated 2/10/05
- 57b Possible Alternate C-2 Connection Redmond Ridge East (undated)
- Exhibit no. 58 Redmond Ridge East Overall Earthwork Plan dated 2/11/05
- Exhibit no. 59 Redmond Ridge East Plat Phasing map dated 2/08/05
- Exhibit no. 60 Combined UPD Plan dated February 2005
- Exhibit no. 61 Redmond Ridge East Recreation Space / Trails Plan dated February 2005
- Exhibit no. 62 Redmond Ridge East Transit Oriented Design/Non-motorized Plan February 2005
- Exhibit no. 63 Redmond Ridge East School / Recreation Complex Conceptual Plan dated February 2005
- Exhibit no. 64 Redmond Ridge East Center Park Conceptual Plan dated February 2005
- Exhibit no. 65 Home Pricing Exhibit of Completed Sales at Redmond Ridge
- Exhibit no. 66 Redmond Ridge East vicinity map dated 2/11/05
- Exhibit no. 67 Redmond Ridge East UPD/FCC Technical Report on Geology, Soils and Ground Water (printout of PowerPoint presentation), by Associated Earth Sciences, Inc.

- Exhibit no. 68 Semi-annual ground water level monitoring reports for Redmond Ridge by Associated Earth Sciences, Inc. (12 reports):
- 68a Dated 3/22/99
 - 68b Dated 9/22/99
 - 68c Dated 3/22/00
 - 68d Dated 9/22/00
 - 68e Dated 3/13/01
 - 68f Dated 10/23/01
 - 68g Dated 3/21/02
 - 68h Dated 10/29/02
 - 68i Dated 4/22/03
 - 68j Dated 11/17/03
 - 68k Dated 4/07/04
 - 68l Dated 10/19/04
- Exhibit no. 69 Greater Redmond Transportation Management Association (GRTMA), Transportation Management Program and Transit Service Plan:
- 69a 2003 Annual Program Review dated July 2003
 - 69b 2004 Annual Program Review dated July 2004
- Exhibit no. 70 Redmond Ridge/Trilogy Commuter Shuttle Ridership Log (undated)
- Exhibit no. 71 Redmond Ridge East and Panhandle water quality information - sources of data, technical report (page 3 of 5) and maps (4)
- Exhibit no. 72 Redmond Ridge East Master Drainage Plan dated 2/5/05
- Exhibit no. 73 Redmond Ridge East UPD/FCC diagram with adjacent non-residential uses, dated 1/8/02
- Exhibit no. 74 Redmond Ridge/Trilogy annual aerial photos 1998-2004
- Exhibit no. 75 Annual Traffic Monitoring Program reports for Redmond Ridge/Blakely Ridge UPDs:
- 75a First report, dated 9/08/99
 - 75b Second report, dated 12/21/00
 - 75c Third report, dated 12/01
 - 75d Fourth report, dated 12/02
 - 75e Fifth report, dated 12/03
 - 75f Sixth report, dated 12/04
- Exhibit no. 76 Draft Annual Traffic Monitoring Program for Redmond Ridge/Blakely Ridge UPDs by The Transpo Group, Inc., dated 2/04/00
- Exhibit no. 77 Study Intersections (DEIS Appendix H, figure 3)
- Exhibit no. 78 Roadway Functional Class and Intersection Control (DEIS Appendix H, figure 4)
- Exhibit no. 79 King County Transportation Concurrency map - Level of Service Standards Status dated 3/7/02
- Exhibit no. 80 1997 Highway Capacity Manual, pages 11-1 through 11-18 - Urban and Suburban Arterials dated October 1994
- Exhibit no. 81 Novelty Hill Road capacity calculations
- Exhibit no. 82 WSDOT Interlocal Agreement for Coordination with King County for Mitigation of Development Impacts on Intersections
- Exhibit no. 83 Interlocal Agreement between King County and the City of Redmond for the Reciprocal Collection of Transportation Impact Fees
- Exhibit no. 84 King County Zones including RRE Splits (DEIS Appendix H-2), undated
- Exhibit no. 85a Schematics of 2010 Baseline Novelty Hill Road Configuration (DEIS Appendix H, Figure 11)
- 85b Schematics of 2010 Baseline Novelty Hill Road Configuration (continued)
- Exhibit no. 86 Improvements from 1998 Base to 2010 No Action Model (DEIS Appendix H, Table 7), dated March 2004
- Exhibit no. 87 Comparison of Pipeline Employment and Household Forecasts to 2010 PSRC Data (DEIS Appendix H-3), undated
- Exhibit no. 88 Model Trip Generation Versus Prior UPD Studies - PM Peak Hour (DEIS Appendix H, Table 6), dated March 2004

- Exhibit no. 89 Redmond Ridge East Proposed Action Weekday PM Peak Hour Residential Trip Connections (DEIS Appendix H, Table 11), dated March 2004
- Exhibit no. 90 Redmond Ridge East Proposed Action Weekday PM Peak Hour Recreation Complex Trip Generation (DEIS Appendix H, Table 13A), dated March 2004
- Exhibit no. 91 Traffic Distribution RRE Proposed Action Alternative without NHR CIP PM Peak Hour (FEIS Figure 4), dated 7/30/04
- Exhibit no. 92 Traffic Distribution Redmond Ridge East Proposed Action Alternative PM Peak Hours (DEIS Appendix H, Figure 18), dated 1/23/04
- Exhibit no. 93 Redmond Ridge East Project Traffic Components - PM Peak Hour (DEIS Appendix H, Table 12), dated March 2004
- Exhibit no. 94 DEIS Intersection Operations Summary – LOS F Locations
- Exhibit no. 95 FEIS Intersection Operations Summary – LOS F Locations
- Exhibit no. 96 Offsite Transportation Improvements diagram by The Transpo Group, Inc., dated 2/14/05
- Exhibit no. 97 Redmond Ridge UPD/FCC Permit (includes original UPD permit, Redline UPD permit and modifications to UPD permit)
- Exhibit no. 98 Review of EIS: Technical Report on Geology, Soils and Groundwater Redmond Ridge East UPD/FCC and Panhandle Preliminary Plat Associated Earth Sciences, Inc. dated 9/29/03 (Derek Booth letter).
- Exhibit no. 99 Professional Resume of Keith Goldsmith
- Exhibit no. 100 Professional Resume of Mark Barber
- Exhibit no. 101 Professional Resume of Mark Weisman
- Exhibit no. 102 Professional Resume of Peggy Wyatt
- Exhibit no. 103 Professional Resume of Curtis Koger
- Exhibit no. 104 Professional Resume of Jennifer Saltonstall
- Exhibit no. 105 Professional Resume of Andrew Kindig
- Exhibit no. 106 Professional Resume of Carl Hadley
- Exhibit no. 107 Professional Resume of Richard Lundquist
- Exhibit no. 108 Professional Resume of Christopher Wright
- Exhibit no. 109 Professional Resume of Larry Toedtli
- Exhibit no. 110 Professional Resume of James Webb
- Exhibit no. 111 Professional Resume of Christopher Fote
- Exhibit no. 112 Professional Resume of Gretchen Brunner
- Exhibit no. 113 *Curriculum vitae* for Geoffrey Thomas
- Exhibit no. 114 *Curriculum vitae* for Jeanne Koetje
- Exhibit no. 115 *Curriculum vitae* for Donald W. Cairns
- Exhibit no. 116 *Curriculum vitae* for Joel F. Pfundt
- Exhibit no. 117 City of Redmond Draft Transportation Master Plan, dated January 2005
- Exhibit no. 118 Transportation Functional Allocation, City of Redmond Public Works Department, 2005-2010 Capital Investment Program
- Exhibit no. 119 City of Redmond 2005-2010 Transportation Improvement Program, adopted 7/20/04
- Exhibit no. 120 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Widening Projects 2020 (wide area view)
- Exhibit no. 121 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Widening Projects 2020 (focus area view)
- Exhibit no. 122 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Connection Projects 2002 (wide area view)
- Exhibit no. 123 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Connection Projects 2002 (focus area view)
- Exhibit no. 124 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Connection and Widening Projects 2020 (wide area view)
- Exhibit no. 125 2020 New BKR Multimodal Model Plot 11/2003 – Effect of Connection and Widening Projects 2020 (focus area view)

- Exhibit no. 126 City of Redmond's Notice of Appeal of Redmond Ridge East FEIS, dated 12/02/04
- Exhibit no. 127 City of Redmond's Statement of Appeal, dated 12/09/04
- Exhibit no. 128 Northeast Sammamish Sewer and Water District's Notice (12/02/04) and Statement (12/09/04) of Appeal of the Adequacy of FEIS for Redmond Ridge East
- Exhibit no. 129 Agreement for Bear Creek Conservation and Recreation Partnership
- Exhibit no. 130 Department of Ecology Report of Examination for Change to Groundwater Right (cert. no. G1-22254C)
- Exhibit no. 131 Copy of WAC 173-508
- Exhibit no. 132 Static water level log for Von Walter well
- Exhibit no. 133 Static water level log for Taugher well
- Exhibit no. 134 Static water level log for King County V well, 1996-2005
- Exhibit no. 135 Static water level log for King County T well, 1996-2005
- Exhibit no. 136 King County DDES technical memorandum dated 10/21/04, Mid-point Review, Monitoring Plan for Redmond Ridge, Buildout Analysis
- Exhibit no. 137 Vol. 1, King County Executive Report, February 2004, Best Available Science, Vol. 1, Ch. 6, Critical Areas Stormwater and Clearing and Grading Proposed Ordinances
- Exhibit no. 138 Draft Environmental Impact Statement (DEIS) for Blakely Ridge, Vol. 1, dated April 1993
- Exhibit no. 139 Report from Associated Earth Sciences, Inc., Proposed Borrow Pit Dewatering Impact Analysis, Trilogy at Redmond Ridge, dated 3/14/01
- Exhibit no. 140 Letter from Brian Paige dated 1/02/05 dismissing Union Hill Water Association's appeal
- Exhibit no. 141 Blakely Ridge Draft Environment Impact Statement (DEIS) and Appendices (6 volumes) dated 4/93
- Exhibit no. 142a Blakely Ridge Final Environmental Impact Statement (FEIS), dated June 1995
- Exhibit no. 142b Blakely Ridge FEIS, Volume II – Comments and Responses (continued)
- Exhibit no. 143c Blakely Ridge FEIS, Volume III (Appendices)
- Exhibit no. 143a Northridge UPD Draft Environmental Impact Statement (DEIS), dated May 1995
- Exhibit no. 143b Volume II – Appendices B, C, D and E
- Exhibit no. 143c Volume III – Appendices F, G and H
- Exhibit no. 143d Volume IV – Appendices J, K, L, I, M, N, O, P, and Q
- Exhibit no. 144 Northridge Final Environmental Impact Statement (FEIS) dated January 1996
- Exhibit no. 145 Redmond Ridge UPD./FCC & Blakely Ridge UPD – Off-site Road Improvement Projects, EIS Addendum, dated November 2000
- Exhibit no. 146 Redmond Ridge South Preliminary Plat, EIS Addendum, dated January 2001
- Exhibit no. 147 Diagram of Redmond Ridge East Product Distribution, dated 2/16/05
- Exhibit no. 148 Printout of PowerPoint proposal – Redmond Ridge East Housing Diversity Proposal
- Exhibit no. 149 Quadrant's proposed revision of Redmond Ridge East UPD/FCC permit conditions 2.3.2 and 2.3.3 re: housing diversity
- Exhibit no. 150 Redmond Ridge East Land Use table dated 2/21/2005
- Exhibit no. 151 Redmond Ridge, Trilogy at Redmond Ridge and Redmond Ridge East Land Use Totals table, dated 2/21/2005
- Exhibit no. 152 2004 – 09 Capital Facilities Plan Amendment, Resolution no. 1947 of the Lake Washington School District
- Exhibit no. 153 Single Family – Multi Family Mix for King County and UPDs table
- Exhibit no. 154 First Amendment to Declaration of Covenants, Conditions and Restrictions for Redmond Ridge Residential Property, dated 3/02/00
- Exhibit no. 155 Examples of housing types being provided by other builders

The following Exhibits were offered and entered into the record on February 23, 2005:

- Exhibit no. 156 Seattle Times article 'Diversity on Redmond Ridge: 19 countries, 36 languages and counting' dated 12/01/02

Exhibit no. 157 Diagram of developable area of smaller lots

The following Exhibit was offered and entered into the record on February 25, 2005:

Exhibit no. 158 50-Year Declining Block Water Supply Agreement between the City of Seattle and The Cascade Water Alliance

The following Exhibit was offered and entered into the record on February 28, 2005:

Exhibit no. 159 Letter from Michael Jonson re: dismissal of appeal of Northeast Sammamish Sewer & Water, dated 2/25/05

The following Exhibits were offered and entered into the record at the February 28, 2005, evening session:

Exhibit no. 160 Letter with attachments from Joseph Elfelt for Friends of the Law, dated 2/25/05

Exhibit no. 161 Letter from Douglas Dedo dated 2/24/05

Exhibit no. 162 Letter from Judith Mangina dated 2/28/05

Exhibit no. 163 Petition from the residents of Westchester Heights for safety measures on Novelty Hill Road

The following Exhibits were offered and entered into the record on March 1, 2005:

Exhibit no. 164 1/22/98 Transpo memo

Exhibit no. 165 Document entitled Novelty Hill Road Capacity used for Concurrency, dated 2/27/03

Exhibit no. 166 Calibration and Adjustment of System Planning Models, dated December 1990, pages 8, 33 and 35.

Exhibit no. 167 King County Multi-Modal Travel Model Development, Phase I Report, Work Order 3 (full copy entered on 4/12/05)

Exhibit no. 168 Computer printouts (46 pages)

The following Exhibits were offered and entered into the record on March 2, 2005:

Exhibit no. 169 DOT – Road Services Division, DIP and Planning Section, 2003 Budget Org Chart

Exhibit no. 170 Resume of Jennifer Lindwall, KCDOT Road Services Division

Exhibit no. 171 Letter from Amy Calderwood to Harold Tanaguchi (unsigned) dated 06/08/04 re: Whistleblower Complaint 2003-00303

Exhibit no. 172 Resume of Richard Warren, dated 1/21/05

Exhibit no. 173 Email series dated March 8 and March 14, 2002, between Richard Warren, Jennifer Lindwall and Hossein Barahimi.

Exhibit no. 174 Resume of Tom Noguchi

Exhibit no. 175 Arterial Classification study for the Rural Area of King County

Exhibit no. 176 Resume of Aaron T. Grimes

Exhibit no. 177 Computer printouts (5 pages)

Exhibit no. 178 Computer printouts (5 pages)

Exhibit no. 179 Computer printouts (4 pages)

Exhibit no. 180 Printout labeled Gravmodl.prn, dated 02/13/02 10:52

Exhibit no. 181 Printout labeled Stepsize date 02/13/02 11:06

Exhibit no. 182 Printout labeled Amasn.prn dated 02/13/02 11:07

Exhibit no. 183 Printout labeled Opan.prn dated 02/13/02 11:43

- Exhibit no. 184 Printout labeled Pmasn.prn dated 02/13/02 12:24
- Exhibit no. 185 2/25 Summary of Corrections
- Exhibit no. 186 Printout of TCM Model 1299 Zones 4/01 NHR 35 MPH with attached plots (9) and matrix totals
- Exhibit no. 187 Printout of TCM Model 1299 Zones 4/01 NHR 45 MPH with attached plots (9)
- Exhibit no. 188 Color map of existing Arterial System, Unincorporated King County
- Exhibit no. 189 Color-coded map of subject area

The following Exhibits were offered and entered into the record on March 3, 2005:

- Exhibit no. 190 Zone 372 Trip Distribution plots (3) NHR 35 MPH
- Exhibit no. 191 Zone 372 Trip Distribution plots (2) NHR 45 MPH with matrix calculations
- Exhibit no. 192 Zone 372 Trip Distribution plots (2) dated 5/03/03, 06:17

The following Exhibits were offered and entered into the record on March 4, 2005:

- Exhibit no. 193 King County Road Services Division, 2005 Adopted CIP Ver A, no. 100992
- Exhibit no. 194 King County Road Services Division, 2005 Adopted CIP Ver A, no. 100992
- Exhibit no. 195 Letter from Ron Sims re: Novelty Hill Road CIP Project, dated 02/22/05
- Exhibit no. 196 Statement of Purpose and Need, taken from 'NEPA/SEPA/404 Merger Concurrence Process Informational Package, Re-Submittal for Concurrence Point One,' 07/25/03
- Exhibit no. 197 Redmond Ridge East EIS – Screenlines, printed 4/07/03
- Exhibit no. 198 Validation Run #1, PM Peak Hour, 1998 RRE Model Volumes Compared to 1998 Counted Traffic, printed 3/04/05
- Exhibit no. 199 Document entitled 'Applying 1,750 vph Concurrence Model Capacity to Countywide Model
- Exhibit no. 200 Original Link Adjustment in R2002A MDL plot, dated 05/03/03, 16:30
- Exhibit no. 201 Revised Link Adjustment plot, dated 05/03/03, 16:24
- Exhibit no. 202 King County PM Peak Traffic Counts, printed 10/29/99
- Exhibit no. 203 2000 Annual Traffic Projection Factor Tables from King County Department of Transportation, Road Services Section (cover, map and pages 9 and 10)
- Exhibit no. 204 Printout from WSDOT website re: SR 202 – SR 520 to Sahalee Way Widening, dated 3/1/05

The following Exhibits were offered and entered into the record on March 7, 2005:

- Exhibit no. 205 Employees Generated by the Novelty Hill UPD/FCC Retail and Office Uses with attachments (4)
- Exhibit no. 206 Washington State Department of Transportation printout entitled, "SR 520 – West Lake Sammamish Parkway to State Route 202," printed 3/01/05
- Exhibit no. 207 Email from Kimberly Claussen re: Request for Recusal from Redmond Ridge East Preliminary Plat review dated 3/01/05
- Exhibit no. 208 Email from mjcostello re: Request for Sanity dated 3/02/05

The following exhibits were offered and entered into the record on March 8, 2005:

- Exhibit no. 209 Printout from King County Metro Online re: Travel Options, printed 3/7/05
- Exhibit no. 210 Copy of Redmond Ridge Residential Owners Association publications, The Ridge In Review dated August 2004, September 2004, and October/November 2004
- Exhibit no. 211 Printout from Redmond Ridge ROA website re: transportation, printed 2/17/05
- Exhibit no. 212 Emails chain (7 pages) with email from Rob Garner re: Trilogy shuttle questions, dated 3/03/05
- Exhibit no. 213 King County TDM/Transit Policies and Codes dated 3/8/05

- Exhibit no. 214 Draft letter from Bonnie Geers to Don Cairns, dated 12/16/04 (unsigned)
- Exhibit no. 215 Printout from Transportation Improvement Board website re: Union Hill Road project, printed 11/23/04

The following exhibits were offered and entered into the record on March 9, 2005:

- Exhibit no. 216 Letter to Kathy Lambert from Peter Orser dated 4/09/04 with attached 6 page list re: why the County Council should restore construction funding for Novelty Hill Road in the 2004 CIP
- Exhibit no. 217 Technical Memorandum re: Redmond Ridge's Impact on Selected King County Revenues, dated 5/11/04

The following exhibits were offered and entered into the record on March 10, 2005:

- Exhibit no. 218 Professional resume of Victor H. Bishop, P.E.
- Exhibit no. 219 King County DOT Traffic Engineering Synchro Modeling Guidelines, dated April 2003
- Exhibit no. 220 Professional resume of Kris Langley
- Exhibit no. 221 Memo from Paulette Norman to Fred Sanders re: updates to Redmond Ridge East road design standards, dated 3/07/05
- Exhibit no. 222 Novelty Hill Road 2030 EIS Corridor Scoping, Modeling Alternatives, dated 3/08/05
- Exhibit no. 223 Memo from Larry Toedtli re: RRE – Transportation Mitigation Compared to Redmond Ridge/Trilogy UPDs w/attachments (2), dated 5/10/04
- Exhibit no. 224 AM & PM Peak Hour Traffic Forecast – without NHR CIP Project 2010 Action Alternative with Access Alternative C-2, dated 3/09/05
- Exhibit no. 225 Tables (1, 2 and 3) re: Level of Service 2010 AM and PM Peak Hour Project Impacts with footnotes (undated)
- Exhibit no. 226 2010 AM Peak Hour – Action with C2 data (119 pages)
- Exhibit no. 227 Proposed Redmond Ridge East Fully Contained Community Permit and Urban Planned Development Permit Conditions, revised 3/10/05
- Exhibit no. 228 Redline version of Proposed Redmond Ridge East Fully Contained Community Permit and Urban Planned Development Permit Conditions, revised 3/10/05

The following exhibits were offered and entered into the record on March 11, 2005:

- Exhibit no. 229 Redmond Ridge East, Overall Land Use Table, dated 3/09/05 (update to ex. no. 150)
- Exhibit no. 230 Preliminary Plat for Redmond Ridge East, received 3/09/05 (revised)

The following exhibits were offered and entered into the record on March 25, 2005:

- Exhibit no. 231a Letter from Maxine Keesling faxed 1/09/05
 - b Letter from Walter D. Walker dated 02/28/05
 - c Email from Debby Neal dated 02/28/05
 - d Email from Bart Norton dated 03/02/05
 - e Email from Rich Cainan dated 03/02/05
 - f Email from Jon Waite dated 03/03/05
 - g Email from Mike Costello dated 03/02/05
 - h Email from Mike Costello dated 03/03/05
 - i Email from Bonny Burns dated 03/03/05
 - j Email from Kristen and Andy Wappler dated 03/10/05

- Exhibit no. 232 Letter from James Haney re: permit conditions dated 3/14/05
- Exhibit no. 233 Letter from Richard Wilson re: permit condition 2.10.2(e) dated 3/18/05
- Exhibit no. 234 King County recommended changes dated 3/18/05
- Exhibit no. 235 Redmond Ridge East Single Family Housing Diversity, Revised Recommended Permit Condition 2.3.2, date 3/17/05
- Exhibit no. 236 Quadrant's proposed revision of Redmond Ridge East UPD/FCC permit conditions section 2.11.2 re: traffic demand management program
- Exhibit no. 237 Email from Michael Costell and response from Stephanie Warden and Harold Taniguchi re: recusal of DDES and KCDOT
- Exhibit no. 238 Redmond Ridge South Transportation Update for the Environmental Assessment by Quadrant Corporation, dated August 10, 1999
- Exhibit no. 239 Turning movement diagram for W Snoqualmie Valley Rd @ NE Novelty Hill Rd, by Traffic Count Consultants, Inc., date of count 8/27/98
- Exhibit no. 240 Turning movement diagram for 208th Ave. NE @ NE Novelty Hill Rd, by Traffic Count Consultants, Inc., date of count 8/27/98
- Exhibit no. 241 City of Redmond Peak Hour Intersection dated 7/08/98
- Exhibit no. 242 National Transportation Library article entitled Calibrating and Adjustment of System Planning Models – December 1990
- Exhibit no. 243 Guidelines for Local Travel Demand Model Development by Chen and Barahimi, for 14th Annual EMME/2 Users Conference
- Exhibit no. 244 Lab 7: Creating a Transportation Network with TRANSCAD CE 451/551
- Exhibit no. 245 Transportation Concurrency Application for King County file no. 02-10-07-03 with attachments (5)
- Exhibit no. 246 Transportation Concurrency Application for King County file no. 01-10-18-01 with attachments (3)
- Exhibit no. 247 King County Department of Transportation 3 day count beginning July 28, 1998, for Novelty Hill Rd w/o 208th Ave. NE (WB) (D-67) (6058)
- Exhibit no. 248 King County Department of Transportation 3 day count beginning July 19, 1999, for W Sno/Val Rd. NE w/o Novelty Hill Rd. (NB) (D-37)(6016)
- Exhibit no. 249 King County Department of Transportation traffic counts (80 pages)
- Exhibit no. 250 TCM Model 1299 Zones 4/01 at 45 mph, TAM .805, data with attached plots
- Exhibit no. 251 TCM Model 1299 Zones 4/01 at 35 mph, TAM .783, data with attached plots
- Exhibit no. 252 TCM Model 1299 Zones 4/01, 35 mph, TAM .78
- Exhibit no. 253 Document re: distribution of 201 dummy trips for zone 372 prepared by Joseph Elfelt for Friends of the Law, dated 3/23/05
- Exhibit no. 254 Printout from metrokc.gov/ddes/upd website entitle Ongoing Construction Activities, Redmond Ridge, updated December 2004
- Exhibit no. 255 Model Validation and Reasonableness Checking Manual by Barton-Aschman Associates, Inc. and Cambridge Systematics, Inc., dated February 1997
- Exhibit no. 256 Color map of Northridge showing Phase I and Phase II, dated January 1993
- Exhibit no. 257 Redmond Ridge Master Plat, sheets 1, 12 and 19, DDES file no. L95P0005/L94UP001
- Exhibit no. 258 Travel Forecasting Model "Errors" by Ho-Chuan Chen, dated 3/25/05 with attachments (11)

The following exhibits were offered and entered into the record on April 11, 2005:

- Exhibit no. 259 Avondale Road Corridor Study by King County Department of Public Works dated March 1989
- Exhibit no. 260 Avondale Road corridor Study Update for Chris Owns, City of Redmond Planning Dept., dated July 1991
- Exhibit no. 261 Memo from Elizabeth Lee re: Redmond Ridge East – FCC Compliances dated 4/01/05
- Exhibit no. 262 Travel Forecasting Model "Errors" (II) by Ho-Chuan Chen, Ph.D., P.E., dated 4/11/05 *entered to the extent that it was addressed in Dr. Chen's testimony.*
- Exhibit no. 263 NHR – 45 mph data, dated 3/28/05, errors

- Exhibit no. 264 NHR – 45 mph data, dated 3/28/05, reports selected pages
- Exhibit no. 265 March model with turn penalty data included, dated 05-04-05 12:56
- Exhibit no. 266 Error messages and descriptions from model run in March 2005
- Exhibit no. 267 King County PM Peak Traffic Counts, printed 10/29/99, pages 11-13
- Exhibit no. 268 Base Network plot, scenario 14, KC 14264 and 14263
- Exhibit no. 269 Base Network, user defined link data 3 plot, 2020 king co 2/kcdot 1/19/2001 nw, scenario 11, dated 01-04-12 14:01
- Exhibit no. 270 Base Network plot, TCM Model 1299 zones 4/01, scenario 1000, dated 02-01-29 12:06
- Exhibit no. 271 Data sheets for NHR 45mph, 3-28-05, R2002a.tam
- Exhibit no. 272 Corrected 1998 Counts plot (2 pgs)
- Exhibit no. 273 Percent of inbound dummy trips originating in UPDs w/annotation on pg. 2
- Exhibit no. 274 Memorandum of Transmittal from Buck & Gordon dated 3/24/05, with attachments

The following exhibit was offered on April 11, 2005, and entered on April 12, 2005:

- Exhibit no. 275 Color-coded zone map

SLS:ms

L02UPD01, L03FCC01 & L03P0003 RPT